

EXHIBIT G



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SEP 20 2007

In the Matter Of:

Drexel

v.

Harleysville Insurance Co.

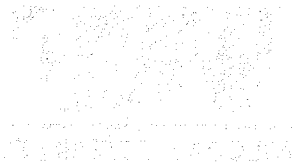
C.A. # 05-428 (JJF)

Transcript of:

Theodore Gregg Parker

September 11, 2007

Wilcox and Fetzer, Ltd.
Phone: 302-655-0477
Fax: 302-655-0497
Email: depos@wilfet.com
Internet: www.wilfet.com



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Drexel v. Harleysville Insurance Co.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LAYNE DREXEL,)
)
Plaintiff,)
) Civil Action
v.) No. 05-428 (JJF)
)
HARLEYSVILLE INSURANCE CO.,)
)
Defendant.)

Deposition of Harleysville Insurance Company
taken pursuant to Federal Rule of Civil Procedure
30(b)(6) through its designee THEODORE GREGG PARKER at
the law offices of Smith, Katzenstein & Furlow LLP,
800 Delaware Avenue, 10th Floor, Wilmington, Delaware,
beginning at 10:15 a.m., on Tuesday, September 11,
2007, before Kurt A. Fetzer, Registered Diplomat
Reporter and Notary Public.

APPEARANCES:

ROBERT K. BESTE, III, ESQ.
SMITH KATZENSTEIN & FURLOW
800 Delaware Avenue - 10th Floor
Wilmington, Delaware 19899
For the Plaintiff

STEPHEN P. CASARINO, ESQ.
CASARINO CHRISTMAN & SHALK
800 North King Street - Suite 200
Wilmington, Delaware 19801
For the Defendant

WILCOX & FETZER
1330 King Street - Wilmington, Delaware 19801
(302) 655-0477
www.wilfet.com

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<p style="text-align: right;">2</p> <p>1 THEODORE GREGG PARKER,</p> <p>2 the deponent herein, having first been</p> <p>3 duly sworn on oath, was examined and</p> <p>4 testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. BESTE:</p> <p>7 Q. Good morning, Mr. Parker.</p> <p>8 A. Good morning.</p> <p>9 Q. My name is Rob Beste. I represent Layne</p> <p>10 Drexel, Harleysville's insured in this matter.</p> <p>11 Can you state your name, age and date of</p> <p>12 birth for the record?</p> <p>13 A. Yes. My name is Theodore Gregg Parker. I'm</p> <p>14 56, I believe. My date of birth is 11-23-51.</p> <p>15 Q. Can you tell me what your position with</p> <p>16 Harleysville is?</p> <p>17 A. I'm a home office property consultant.</p> <p>18 Q. What does that title require you to do, that</p> <p>19 position?</p> <p>20 A. I've got several responsibilities. I oversee</p> <p>21 large loss claim handling. I oversee the vendor</p> <p>22 management program. I organize and direct catastrophe</p> <p>23 responses. I conduct training as requested.</p> <p>24 Q. Under which of those classifications does this</p>	<p style="text-align: right;">4</p> <p>1 MR. CASARINO: I'm not sure what you mean</p> <p>2 by "authority."</p> <p>3 Q. Authority if we were to settle or to make a</p> <p>4 decision on Harleysville's behalf. Is that your</p> <p>5 authority or someone else's?</p> <p>6 A. This particular claim would probably be</p> <p>7 resolved or authorized by a claim committee.</p> <p>8 Q. Someone you report to, a committee you report</p> <p>9 to?</p> <p>10 A. I would be a member of the committee.</p> <p>11 Q. Who else would comprise that committee?</p> <p>12 A. Frank Rotella is my -- I report directly to</p> <p>13 him. He is the property material damage director for</p> <p>14 Harleysville. We have also a litigation manager that</p> <p>15 may be present in a committee setting.</p> <p>16 Q. Are you aware if the plaintiff is successful on</p> <p>17 certain aspects of his claim that he can collect his</p> <p>18 attorney's fees?</p> <p>19 A. Yes.</p> <p>20 Q. How long have you been an employee of</p> <p>21 Harleysville?</p> <p>22 A. Ten years.</p> <p>23 Q. Beginning approximately when?</p> <p>24 A. June 23rd, plus or minus, '97.</p>
<p style="text-align: right;">3</p> <p>1 case fall?</p> <p>2 A. This would be more of a large loss or a complex</p> <p>3 loss.</p> <p>4 Q. How do you define those terms, large or complex</p> <p>5 loss?</p> <p>6 A. A large loss is anything a hundred thousand</p> <p>7 dollars or over. A complex loss would be something</p> <p>8 that has a number of factors that would cause the home</p> <p>9 office interest or involvement, such as a coverage</p> <p>10 dispute, an arson case or something that the branch</p> <p>11 just may request technical assistance on.</p> <p>12 Q. Can you explain to me what you mean by the</p> <p>13 phrase "home office"?</p> <p>14 A. Yes. Harleysville has a home office complex in</p> <p>15 Harleysville, Pennsylvania. The home office is the</p> <p>16 central location for some administrative and claim</p> <p>17 functions. It also has underwriting and marketing</p> <p>18 functions there as well.</p> <p>19 Q. Are you part of that function or are you</p> <p>20 separate from it?</p> <p>21 A. No. I'm a home office employee.</p> <p>22 Q. Do you have overall authority with respect to</p> <p>23 this claim and this lawsuit or does that reside with</p> <p>24 someone else?</p>	<p style="text-align: right;">5</p> <p>1 Q. Can you give me a brief history of the</p> <p>2 positions you've held at Harleysville since you</p> <p>3 started in June of '97?</p> <p>4 A. Yes. I was interviewing for two jobs at the</p> <p>5 same time with Harleysville. I was interested in the</p> <p>6 position that I currently have. At the time it was a</p> <p>7 general adjuster's position.</p> <p>8 And while I was interviewing for that, I</p> <p>9 was offered a job as a claim rep in the Charlotte</p> <p>10 office. I accepted that position with the</p> <p>11 understanding that it wouldn't preclude my</p> <p>12 consideration for the general adjuster's position.</p> <p>13 And so I was a property claim rep for</p> <p>14 three weeks before I got the job as a general</p> <p>15 adjuster.</p> <p>16 Q. So you were in Charlotte for three weeks and</p> <p>17 then you came to where?</p> <p>18 A. I'm still in Charlotte.</p> <p>19 Q. You're still in Charlotte?</p> <p>20 A. I telecommute from Charlotte.</p> <p>21 MR. BESTE: Off the record.</p> <p>22 (Discussion off the record.)</p> <p>23 MR. BESTE: Now, just for the record,</p> <p>24 there have been two prior depositions in this case</p>

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6	<p>1 and exhibits have already been marked, so I'm going to</p> <p>2 be handing you some documents. They will be marked</p> <p>3 according to my convoluted numbering system. You can</p> <p>4 ignore the numbers and just focus on the documents.</p> <p>5 If I could have this marked as H-23,</p> <p>6 please.</p> <p>7 (H Deposition Exhibit No. 23 was marked</p> <p>8 for identification.)</p> <p>9 BY MR. BESTE:</p> <p>10 Q. Are you able to identify this document?</p> <p>11 A. It's a notice of deposition.</p> <p>12 Q. Have you ever seen that before?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall when you have seen that document</p> <p>15 prior to this morning?</p> <p>16 A. I don't recall prior to this morning exactly</p> <p>17 when I saw it.</p> <p>18 Q. Do you understand that this is a request from</p> <p>19 my office that Harleysville provide a representative</p> <p>20 to testify on certain subjects?</p> <p>21 A. Yes.</p> <p>22 Q. And you see in H-23 there are a number of</p> <p>23 subjects listed beginning with number 1 on page 1 and</p> <p>24 going through number 9? If you could please briefly</p>	8
7	<p>1 review those topics and I want an understanding of</p> <p>2 what topics on that list you're able to testify and</p> <p>3 are prepared to testify to today.</p> <p>4 A. Okay.</p> <p>5 Q. Please take your time.</p> <p>6 A. Yes.</p> <p>7 Q. We can go through them one by one. You can</p> <p>8 read them all at once, any way you prefer, just to</p> <p>9 make sure we're clear.</p> <p>10 MR. CASARINO: Just to make sure we're</p> <p>11 clear, he might be able to testify about a lot of</p> <p>12 them, but with regard to whether he's speaking on</p> <p>13 behalf of the company, that's really what I guess</p> <p>14 you're asking him.</p> <p>15 MR. BESTE: It is. And perhaps we can</p> <p>16 stipulate to it if you have a position on that for me.</p> <p>17 MR. CASARINO: No. I just mentioned he's</p> <p>18 here on behalf of claims. He's not here on behalf of</p> <p>19 the procedures regarding termination. There's another</p> <p>20 person coming today.</p> <p>21 MR. BESTE: Right. I'm trying to get an</p> <p>22 idea of what capacity he's --</p> <p>23 MR. CASARINO: I understand. But he may</p> <p>24 know something about it, but he's not speaking on</p>	9
	<p>1 behalf of the company.</p> <p>2 BY MR. BESTE:</p> <p>3 Q. If you could look through the list and maybe</p> <p>4 we'll go through them one by one and if you will tell</p> <p>5 me whether you're capable and your attorney can</p> <p>6 confirm whether you're here to speak for the company</p> <p>7 on those topics.</p> <p>8 A. We can do that one by one.</p> <p>9 Q. All right. Start with 1.</p> <p>10 A. I would --</p> <p>11 Q. The standing question for each one is whether</p> <p>12 you're here to testify regarding the topic listed.</p> <p>13 Okay?</p> <p>14 A. Okay. To my understanding I'm here to testify</p> <p>15 as far as claims procedures and that would be my area</p> <p>16 of expertise.</p> <p>17 So as to number 1, "policies and</p> <p>18 procedures with respect to coverage termination and</p> <p>19 notice thereof to its insured," that's not something</p> <p>20 that would be strictly a claims matter. That would be</p> <p>21 something that would be handled by others.</p> <p>22 Number 2, "policies and procedures with</p> <p>23 respect to acceptance and processing of premium</p> <p>24 payments from insureds, including late premium</p>	
	<p>1 payments." That's something that would be handled by</p> <p>2 outside of the claims department, so I would not --</p> <p>3 Q. Do you know what department handles that, what</p> <p>4 the title of the department is?</p> <p>5 A. You know, I really don't. My assumption would</p> <p>6 be it would be a subset of underwriting where they</p> <p>7 would have billing and processing, but how exactly</p> <p>8 they're organized I couldn't tell you.</p> <p>9 Q. How about 3?</p> <p>10 A. "Policies and procedures on the effective</p> <p>11 cancellation date selected by Harleysville when</p> <p>12 cancelling property insurance." The claims department</p> <p>13 doesn't deal with canceling property insurance, so</p> <p>14 that's not something that I would testify to.</p> <p>15 Number 4, "Harleysville's policies and</p> <p>16 procedures with respect to adequate justifications for</p> <p>17 the cancellation of insurance policies, including the</p> <p>18 type at issue in this suit and retroactive</p> <p>19 cancellations after claims have been made on a</p> <p>20 policy."</p> <p>21 The claims department does sometimes</p> <p>22 address justifications for cancellation of insurance</p> <p>23 policies, so there are some types or scenarios where</p> <p>24 it would be a claims determination.</p>	

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10	<p>1 Q. Are you able to explain to me the difference</p> <p>2 between when it would be a claims -- I'm sorry.</p> <p>3 Are you able to tell me what the</p> <p>4 difference between when the claims department would be</p> <p>5 involved and when the claims department would not be</p> <p>6 involved in that regard?</p> <p>7 A. Yes. I think I could do that for you.</p> <p>8 Q. Give it a shot.</p> <p>9 A. Okay. If during the investigation of a claim</p> <p>10 we establish that there has been fraud or</p> <p>11 misrepresentation in the presentation of a claim, that</p> <p>12 would be something that we would be the instigator of</p> <p>13 a cancellation process.</p> <p>14 Q. By "we" you mean the claims department?</p> <p>15 A. The claims department, that's right.</p> <p>16 Q. Is there any of that, the fraud element,</p> <p>17 involved in this claim from your perspective?</p> <p>18 A. Yes, I think there is, but in this instance</p> <p>19 we're really not talking about a cancellation. But I</p> <p>20 think that there is an element of fraud in this case.</p> <p>21 Q. Can you explain why you think there's an</p> <p>22 element of fraud in this case?</p> <p>23 A. Yes, I think I can.</p> <p>24 We have a situation where we had offered</p>	12
11	<p>1 an extension of coverage or a continuation of coverage</p> <p>2 in exchange for payment of premium within a certain</p> <p>3 time period. It has been alleged that payment was</p> <p>4 made timely and that Harleysville had mishandled the</p> <p>5 check that was issued to assure continued coverage.</p> <p>6 An investigation of the claim has</p> <p>7 determined that it's more likely than not that the</p> <p>8 check was issued well after the end of the period</p> <p>9 where coverage was offered, so the fraudulent aspect</p> <p>10 in my opinion would be the inducement or the</p> <p>11 falsification of dates, records and testimony to</p> <p>12 induce us to provide coverage.</p> <p>13 Q. You said dates, records and testimony.</p> <p>14 Can you explain to me what specific dates,</p> <p>15 records and testimony were falsified in this case in</p> <p>16 your opinion?</p> <p>17 A. Well, in my opinion, the date of the issuance</p> <p>18 of a check, I believe we can show that that check was</p> <p>19 backdated to a time well within the period where we</p> <p>20 would have accepted it to extend coverage.</p> <p>21 Q. Anything else aside from the backdating issue?</p> <p>22 A. I believe it was alleged -- and I'm trying to</p> <p>23 recall exactly where and how.</p> <p>24 I believe the insured alleged that the</p>	13
	<p>1 check was issued timely and that Harleysville had</p> <p>2 mishandled the check thereby causing him not to have</p> <p>3 coverage.</p> <p>4 Q. What do you mean you mishandled the check?</p> <p>5 What is your understanding of that assertion at least</p> <p>6 as you see it?</p> <p>7 A. My understanding was that it was alleged that</p> <p>8 the check was written on the date that appears on the</p> <p>9 check as the issued date; it was sent to Harleysville</p> <p>10 to pay the premium for the policy and that we lost or</p> <p>11 mishandled the check and it was not applied to the</p> <p>12 account which would have created coverage. And that's</p> <p>13 really not the case.</p> <p>14 Q. Where did you develop that understanding of the</p> <p>15 accusations of the case from? Can you explain to me</p> <p>16 where it came from?</p> <p>17 A. Not exactly, no, I can't. I don't know if it</p> <p>18 was in the pleadings. I believe it was, but I don't</p> <p>19 know for sure. I would have to review the documents</p> <p>20 to see.</p> <p>21 Q. What involvement does the claims department</p> <p>22 have in processing premium payments as they come in</p> <p>23 from insureds?</p> <p>24 A. None.</p>	
	<p>1 Q. And so you're not capable of testifying</p> <p>2 regarding what Harleysville employees believed when</p> <p>3 they received the premium payment in issue here?</p> <p>4 A. I have no knowledge of what employees even got</p> <p>5 the payment.</p> <p>6 Q. And do you have any knowledge of the policies</p> <p>7 or procedures or job requirements of the employees who</p> <p>8 do process premium payments for Harleysville?</p> <p>9 A. No. I have no knowledge of that.</p> <p>10 Q. So your understanding that some type of fraud</p> <p>11 caused Harleysville to misapply the check is not based</p> <p>12 on your understanding of how payments are processed by</p> <p>13 Harleysville?</p> <p>14 A. I didn't say that Harleysville had misapplied</p> <p>15 the check.</p> <p>16 Q. You said that was the allegation.</p> <p>17 A. That was the allegation.</p> <p>18 Q. Right.</p> <p>19 A. So what was the question again? I'm sorry.</p> <p>20 Q. Well, let's just move on from that question.</p> <p>21 It was not a good question.</p> <p>22 All right. How about topic 4 on H-23, are</p> <p>23 you here to testify regarding that topic?</p> <p>24 A. Just to the extent we just discussed.</p>	

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14	<p>1 Q. I'm sorry. I'm sorry.</p> <p>2 Topic 5?</p> <p>3 A. "Harleysville's policies and procedures</p> <p>4 regarding claims notes and notations, including</p> <p>5 methods of recording and reading claims notices."</p> <p>6 Yes, I'm prepared to testify about that.</p> <p>7 Q. Have you reviewed Harleysville's adjusters'</p> <p>8 notes in this matter in preparation for the deposition</p> <p>9 today?</p> <p>10 A. Yes, I have.</p> <p>11 Q. What other documents have you reviewed in</p> <p>12 preparing for today?</p> <p>13 A. I reviewed the property claims manual that was</p> <p>14 in effect at the time of the loss.</p> <p>15 Q. Anything else?</p> <p>16 A. That's it.</p> <p>17 Q. Did you participate in any meetings in</p> <p>18 preparation for today?</p> <p>19 A. No.</p> <p>20 Q. You didn't meet with any other Harleysville</p> <p>21 employees or representatives regarding your testimony</p> <p>22 today?</p> <p>23 A. No.</p> <p>24 Q. Are you here to testify regarding topic number</p>	16	<p>1 A. "The history of the Claim at issue including</p> <p>2 all direction and communications with third parties or</p> <p>3 plaintiff." I can testify as to the history of the</p> <p>4 claim.</p> <p>5 Q. Are you able to testify regarding</p> <p>6 communications with third parties and plaintiff</p> <p>7 arising from the claims department?</p> <p>8 A. That is recorded I can testify to.</p> <p>9 Q. And you have no separate knowledge or memory of</p> <p>10 the claims handling process in this case aside from</p> <p>11 what you know from the documents? Is that accurate?</p> <p>12 A. That's accurate. I've had no communication</p> <p>13 with any third parties or plaintiff other than today</p> <p>14 with you.</p> <p>15 Q. Do you know when you first became aware of this</p> <p>16 claim?</p> <p>17 A. Not precisely.</p> <p>18 Q. Can you tell me less precisely? I'm just</p> <p>19 looking for an estimate.</p> <p>20 Were you involved before the claim was</p> <p>21 denied, to your recollection?</p> <p>22 A. No, I don't believe I was. The amount of the</p> <p>23 claim would suggest that I wasn't. It didn't appear</p> <p>24 to be one that would exceed \$100,000 and that's</p>
15	<p>1 6?</p> <p>2 A. "Harleysville's denial of the Claim and</p> <p>3 cancellation of the Policy at issue." I can testify</p> <p>4 as to our denial of the claim, but I was not involved</p> <p>5 in the non-renewal of the policy.</p> <p>6 Q. As you understand this claim or the policy</p> <p>7 expiration, what department or group at Harleysville</p> <p>8 had final authority regarding whether this claim would</p> <p>9 be paid at the time the decision was made to deny it?</p> <p>10 A. I can tell you that it was not claims. But</p> <p>11 since I'm not crystal clear on the structure between</p> <p>12 underwriting and processing, I really can't tell you</p> <p>13 exactly which of those or even if they're separate how</p> <p>14 that works, but the policy period was not set by the</p> <p>15 claims department.</p> <p>16 Q. So when the claims department denied the claim</p> <p>17 in this case, it was doing so based solely on the</p> <p>18 instructions of some other representatives of</p> <p>19 employees outside of the claims department?</p> <p>20 A. Correct.</p> <p>21 Q. Just following orders?</p> <p>22 A. Just following the information we were provided</p> <p>23 with, yes.</p> <p>24 Q. How about topic 7?</p>	17	<p>1 ordinarily when I get notice of a claim.</p> <p>2 Q. To your knowledge, was this claim already in</p> <p>3 litigation when you became aware of it?</p> <p>4 A. I think it might have been litigation that</p> <p>5 brought it to my attention.</p> <p>6 Q. Are you here to testify regarding topic number</p> <p>7 8?</p> <p>8 A. "All payments made associated with this claim,</p> <p>9 whether withdrawn or not." I can testify to any</p> <p>10 payments made.</p> <p>11 Q. Does the claims department directly issue</p> <p>12 payments on claims or policies?</p> <p>13 A. Yes.</p> <p>14 Q. My understanding before you said that was that</p> <p>15 they directed the home office to issue checks. Is</p> <p>16 that how it works?</p> <p>17 A. That's one way that it works.</p> <p>18 Q. The claims department can also issue checks</p> <p>19 independently of the home office?</p> <p>20 A. Correct.</p> <p>21 Q. Can you give me a brief understanding of the</p> <p>22 difference between when the claims department can and</p> <p>23 cannot send checks separate and apart from the home</p> <p>24 office?</p>

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18	<p>1 A. Yes. If there's -- all the branches have the</p> <p>2 ability to issue manual checks that would be prepared</p> <p>3 either by the claim rep. They could type it. They</p> <p>4 can fill it out with a pen. And usually when a manual</p> <p>5 check is necessary is there's a crucial time element</p> <p>6 involved.</p> <p>7 I carry manual checks with me when I go to</p> <p>8 large losses and routinely issue them on site.</p> <p>9 Q. Are you able to testify regarding topic number</p> <p>10 9?</p> <p>11 A. "Harleysville's policy as to the number of</p> <p>12 cancellation notices required to be sent and the</p> <p>13 effective date of that cancellation for the type of</p> <p>14 policy at issue."</p> <p>15 That does not appear to be a claim</p> <p>16 department function. I wouldn't know anything much</p> <p>17 about that.</p> <p>18 Q. I'm going to try to keep these exhibits</p> <p>19 organized, but feel free to refer to any of them that</p> <p>20 you feel is necessary.</p> <p>21 I think we have established what you can</p> <p>22 testify about today. Can you give me an understanding</p> <p>23 of Harleysville's corporate structure or hierarchy in</p> <p>24 a very general sense as far as the distinction between</p>	20	<p>1 assume.</p> <p>2 Q. Is there any type of structure at the top of</p> <p>3 the organization, a management division or department</p> <p>4 or anything like that that oversees all of the various</p> <p>5 departments?</p> <p>6 Is there any formal structure there?</p> <p>7 A. Yes.</p> <p>8 Q. Can you explain that to me briefly?</p> <p>9 A. I'll explain my understanding of it.</p> <p>10 Q. Sure. That's all I can ask.</p> <p>11 A. I believe we have a CEO, president, vice</p> <p>12 president and a board that handles the direction the</p> <p>13 company goes in.</p> <p>14 Q. And does that group oversee the different</p> <p>15 departments directly, to your knowledge?</p> <p>16 A. I would imagine the CEO would be the one that</p> <p>17 is responsible to the board for the oversight of each</p> <p>18 claims operation or each functional operation.</p> <p>19 Q. What is your understanding of who at</p> <p>20 Harleysville processes premium payments as they come</p> <p>21 in from an insured and where that occurs?</p> <p>22 A. I have no direct knowledge of it.</p> <p>23 Q. Do you know where it occurs?</p> <p>24 A. My assumption would be it occurs in the home</p>
19	<p>1 claims and underwriting, what's your understanding of</p> <p>2 the whole umbrella, if you will?</p> <p>3 A. How the insurance company itself is organized?</p> <p>4 Q. Yes, sir.</p> <p>5 A. I can give you my rudimentary understanding of</p> <p>6 how it's organized.</p> <p>7 It is specialized to some degree as any</p> <p>8 large organization would be. The claims department</p> <p>9 handles the investigation and payment of legitimate</p> <p>10 claims.</p> <p>11 Underwriting reviews risks that are</p> <p>12 submitted to it for consideration and assigns a</p> <p>13 premium for that risk if it's acceptable and works</p> <p>14 with the agents to establish the existence of a</p> <p>15 policy.</p> <p>16 Marketing would be the department that</p> <p>17 solicits or encourages the agents to write insurance</p> <p>18 with Harleysville. Those are the three large,</p> <p>19 familiar functions of an insurance company, but there</p> <p>20 is an administrative aspect to any insurance company</p> <p>21 and I don't know that there is a separate</p> <p>22 administrative department. Probably that would be a</p> <p>23 subdepartment within each large component. Claims</p> <p>24 would have its own administrative staff I would</p>	21	<p>1 office. I haven't seen a bill, so I don't even know</p> <p>2 what the return address is.</p> <p>3 Q. In the summer of 2004 are you familiar with the</p> <p>4 responsibilities that the claims department of</p> <p>5 Harleysville had with respect to handling and</p> <p>6 processing a claim as it came in?</p> <p>7 A. Yes.</p> <p>8 Q. Can you explain to me who gets the initial</p> <p>9 report of a claim and what their responsibilities are?</p> <p>10 A. I believe I can.</p> <p>11 A claim report can either come in directly</p> <p>12 from a customer or it can come in from the agency.</p> <p>13 The report would come into our central processing unit</p> <p>14 in Harleysville and a contact would be made with the</p> <p>15 insured at that point. Depending on the severity and</p> <p>16 complexity of the claim, a decision is made as to</p> <p>17 whether that claim is retained in the central</p> <p>18 processing unit or whether it's assigned to one of our</p> <p>19 claim service centers.</p> <p>20 Q. And it eventually gets to a claim adjuster?</p> <p>21 A. Yes. We have claims adjusters in the CCU,</p> <p>22 which is our central claims unit. They primarily</p> <p>23 handle claims that are relatively short-lived and</p> <p>24 minor claims, mostly homeowner claims, and so they</p>

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22	<p>1 retain those that are essentially less severe.</p> <p>2 Q. Do you know whether this claim was assigned to</p> <p>3 an adjuster when it eventually came in?</p> <p>4 A. I believe it was.</p> <p>5 Q. Do you know who that person was?</p> <p>6 A. I believe it was Sherry Clodfelter.</p> <p>7 Q. Can you explain to me what Ms. Clodfelter's</p> <p>8 responsibilities were in a general sense when she</p> <p>9 first processed this claim in the summer of 2004?</p> <p>10 A. Well, yes. Upon receipt of the claim, she's</p> <p>11 responsible for making contact with the insured, for</p> <p>12 investigating the claim, including her discussions</p> <p>13 with the insured, securing any official documents that</p> <p>14 may be required such as a fire report. And her</p> <p>15 investigation would include establishing the amount of</p> <p>16 damage to the property, which she could do by either</p> <p>17 assigning an approved contractor or an independent</p> <p>18 adjuster to the case.</p> <p>19 Q. Why was an independent adjuster assigned in</p> <p>20 this case?</p> <p>21 A. I believe an independent adjuster was assigned</p> <p>22 because of the amount of damage that was described to</p> <p>23 Ms. Clodfelter.</p> <p>24 Q. It was above a certain threshold?</p>	24	<p>1 suffix, which is their usual procedure, you know, open</p> <p>2 a building suffix at a standard reserve pending</p> <p>3 investigation, Sherry would be able to type in the</p> <p>4 claim number into the system. And the screen that</p> <p>5 would come up would show the policy, the policy</p> <p>6 number, the claim number, the effective dates and that</p> <p>7 the policy was active.</p> <p>8 Q. So she accesses some type of computer database</p> <p>9 to verify that the policy is effective on the date of</p> <p>10 loss?</p> <p>11 A. It's not really a database. It's our claims</p> <p>12 system. It's a CICS is how we designate that claims</p> <p>13 system.</p> <p>14 Q. Is that an acronym?</p> <p>15 A. I bet it is, but I don't know what it stands</p> <p>16 for.</p> <p>17 Q. Are the claims adjusters able to alter or</p> <p>18 change the data in that system?</p> <p>19 A. The data as far as coverage or as far as --</p> <p>20 Q. The effective dates of coverage?</p> <p>21 A. No. They can inquire as to different policy</p> <p>22 periods, but they do not have the ability to change</p> <p>23 effective dates.</p> <p>24 Q. Who does it within Harleysville, to your</p>
23	<p>1 A. Yes. Ordinarily, we would send an approved</p> <p>2 contractor, we have an approved contractor program,</p> <p>3 out on losses of \$5,000 or less. This was reported to</p> <p>4 exceed that, so she assigned an independent adjuster.</p> <p>5 Q. Was Ms. Clodfelter required by Harleysville</p> <p>6 when she processed this claim to verify that coverage</p> <p>7 was in place?</p> <p>8 A. Yes.</p> <p>9 Q. And how was she required to go about doing</p> <p>10 that?</p> <p>11 A. Well, the policy information is available on</p> <p>12 our computer. She probably received the claim having</p> <p>13 already been set up with one suffix opened. That</p> <p>14 function is handled in the central claims unit. So</p> <p>15 when she receives the assignment to complete the</p> <p>16 handling of the claim she would confirm that the</p> <p>17 policy was in effect and the loss occurred within the</p> <p>18 effective dates.</p> <p>19 Q. Can you explain to me practically how she would</p> <p>20 verify that coverage was in effect when she first</p> <p>21 received this claim?</p> <p>22 A. Well, as a practical matter since the claim had</p> <p>23 already been assigned a claim number, so it was locked</p> <p>24 in, and if the central claims unit had opened one</p>	25	<p>1 knowledge?</p> <p>2 A. I don't know who would change effective dates.</p> <p>3 Q. Do you know who controls the information that's</p> <p>4 in that system?</p> <p>5 A. No.</p> <p>6 Q. Is it underwriting?</p> <p>7 A. Underwriting I believe would be where a lot of</p> <p>8 the information would originate, but I don't know if</p> <p>9 underwriting is directly charged with maintaining that</p> <p>10 information or whether that is another subdepartment</p> <p>11 of underwriting.</p> <p>12 Q. Another subdepartment of underwriting?</p> <p>13 A. Yeah. I don't know how underwriting is</p> <p>14 organized, but that would be one of their functions,</p> <p>15 would be to provide us with coverage information so we</p> <p>16 can handle claims. It's like that would be separate</p> <p>17 from, you know, billing and receiving payment for</p> <p>18 bills.</p> <p>19 That's also a logical function of</p> <p>20 maintaining coverage, but I wouldn't know exactly how</p> <p>21 that is organized and who they would report to.</p> <p>22 Q. To your knowledge, do any groups within</p> <p>23 Harleysville, aside from underwriting, have the</p> <p>24 ability to control the coverage information that we're</p>

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26	<p>1 discussing?</p> <p>2 A. No. I can't think of anyone else that could</p> <p>3 address coverage.</p> <p>4 Q. I'm going to hand you what previously has been</p> <p>5 marked as H-1. I ask if you can identify that</p> <p>6 document.</p> <p>7 MR. BESTE: Do you have copies of these?</p> <p>8 I have copies if you need them.</p> <p>9 MR. CASARINO: I have copies from the last</p> <p>10 deposition. I don't need them, no.</p> <p>11 A. These appear to be adjuster log notes from our</p> <p>12 claim information system, the CICS system.</p> <p>13 Q. Are you able to tell me when Harleysville first</p> <p>14 processed this claim?</p> <p>15 A. I can tell you the first log note is dated</p> <p>16 6-22-04.</p> <p>17 Q. Looking at H-1, are you able to tell me who at</p> <p>18 Harleysville confirmed when the claim initially came</p> <p>19 in that coverage was in place on the date of the loss?</p> <p>20 A. (Reviewing document) It appears that the</p> <p>21 original individual that took the claim in the central</p> <p>22 claims unit may have locked it in as something that's</p> <p>23 covered, but it doesn't, the note doesn't say anything</p> <p>24 about that aspect.</p>	28	<p>1 And the first few lines deal directly with</p> <p>2 coverage.</p> <p>3 Q. So on June 23, 2004 did Ms. Clodfelter verify</p> <p>4 that there was coverage in place as of the date of</p> <p>5 loss?</p> <p>6 A. Yes.</p> <p>7 Q. Looking at those adjuster notes, H-1, are you</p> <p>8 able to tell me when the claims department first</p> <p>9 became aware there was an issue regarding the payment,</p> <p>10 the premium payment in this case?</p> <p>11 A. I believe I can.</p> <p>12 It appears that we were made aware that</p> <p>13 there was a problem on 8-13-04. Ms. Clodfelter had</p> <p>14 requested a check and the note of 8-13-04 of 14:18 for</p> <p>15 Mr. Riddle says that this policy may be canceled prior</p> <p>16 to the effective date.</p> <p>17 Q. Can you explain to me what that means, this</p> <p>18 policy can be canceled prior to the effective date?</p> <p>19 MR. CASARINO: He didn't say, "can." He</p> <p>20 said, "may be."</p> <p>21 MR. BESTE: Okay.</p> <p>22 BY MR. BESTE:</p> <p>23 Q. Explain to me what that note means.</p> <p>24 A. What that note means is that policy periods run</p>
27	<p>1 The next note is from a supervisor that</p> <p>2 does mention that or requests that Sherry check the</p> <p>3 coverage of the building and scheduled personal</p> <p>4 property.</p> <p>5 Q. Can you tell me who made that note you're</p> <p>6 referring to? I believe you're referring to the note</p> <p>7 at 12:46 on the 22nd of June.</p> <p>8 A. Yes. That's John Duncan. He's a supervisor.</p> <p>9 The claim would come into the central</p> <p>10 claims unit or the central claims unit would get it</p> <p>11 and the original claim handler determined apparently</p> <p>12 that this was something that needed to go to the</p> <p>13 claims service center. So it was electronically</p> <p>14 transmitted to the claim service center.</p> <p>15 The supervisors get those assignments and</p> <p>16 then they assign them to claim reps. John Duncan made</p> <p>17 the assignment to Sherry Clodfelter.</p> <p>18 Q. Did Ms. Clodfelter, looking at these notes, did</p> <p>19 she verify that coverage was in place on the date of</p> <p>20 loss when the claim first came in?</p> <p>21 A. It appears that she did according to the note</p> <p>22 on 6-23 at 11:45. Let's see. 1172 is our designation</p> <p>23 for a short initial report. She put it right on the</p> <p>24 adjuster log notes, which is perfectly acceptable.</p>	29	<p>1 from the effective date or the inception date to the</p> <p>2 end date, and the inception date is the effective date</p> <p>3 of the policy. On a renewal the effective date is</p> <p>4 essentially the first day after the end of the last</p> <p>5 policy period so that it runs concurrently without a</p> <p>6 lapse, you know, so it runs consecutively.</p> <p>7 So this appears to be a situation where</p> <p>8 the underwriter or whoever handles claims billing and</p> <p>9 payment had anticipated a payment for the renewal</p> <p>10 policy that they did not receive, so the policy</p> <p>11 terminated as of the end of the previous policy</p> <p>12 period.</p> <p>13 Q. When you say the policy terminated, why do you</p> <p>14 use the word "terminated"? Does that have some</p> <p>15 special meaning?</p> <p>16 A. It means it ended.</p> <p>17 Q. What caused it to end?</p> <p>18 A. The policy period that the insured had provided</p> <p>19 payment for was over. The policy is written for</p> <p>20 specific perils and for a specific time period and</p> <p>21 this time period had ended.</p> <p>22 Q. Between the time Ms. Clodfelter verified</p> <p>23 coverage on June 23rd, 2004 and the notes we're</p> <p>24 discussing on August 13, 2004, is it accurate to say</p>

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30	<p>1 that the claims department believed during that entire</p> <p>2 period that the policy was in place on the date of</p> <p>3 loss?</p> <p>4 A. Yes.</p> <p>5 Q. And August 13th, 2004 was the first time any</p> <p>6 employee of Harleysville's claim department became</p> <p>7 aware that there was an issue with Mr. Drexel's</p> <p>8 premium payment in this case?</p> <p>9 A. Yes.</p> <p>10 Q. So Ms. Clodfelter complied with her</p> <p>11 responsibility to verify coverage was in effect on the</p> <p>12 date of the loss when she first processed this claim,</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Does Harleysville require its claims handlers</p> <p>16 to check that information, in other words, whether a</p> <p>17 policy was in place on the date of loss, at any time</p> <p>18 subsequent to the initial processing of the claim?</p> <p>19 A. No, they don't.</p> <p>20 Q. So from a claims department perspective, once</p> <p>21 that information is verified, that the coverage is in</p> <p>22 place at the beginning of the claim, they will process</p> <p>23 and pay the claim unless they're told otherwise by</p> <p>24 some other function of Harleysville. Is that correct?</p>	32	<p>1 an additional part of the claim with a separate limit</p> <p>2 and we would open a suffix to address any contents</p> <p>3 damage.</p> <p>4 If there's a time element coverage, we</p> <p>5 would have opened another suffix to address that</p> <p>6 different aspect of the claim.</p> <p>7 Q. So looking at H-1 again, the very first entry</p> <p>8 starts with the numbers SO-530739.</p> <p>9 Is 530739 the claim number in this case?</p> <p>10 A. Yes, including the SO. You would need that for</p> <p>11 it to come up.</p> <p>12 Q. What does the SO stand for?</p> <p>13 A. The SO describes a claim that would be assigned</p> <p>14 to the southeast claim service center.</p> <p>15 Q. Are you able to tell me what different suffixes</p> <p>16 were created with respect to Mr. Drexel's claim in</p> <p>17 this case?</p> <p>18 A. Not from what I have in front of me, I don't</p> <p>19 believe.</p> <p>20 Now, she does describe what coverage he</p> <p>21 has, but this isn't really a print of a reserve screen</p> <p>22 that would show me what she had established. She</p> <p>23 describes, for instance, in her note of 6-23 at 11:45</p> <p>24 the C-1172 designation which she describes building</p>
31	<p>1 A. That's correct.</p> <p>2 Q. And that was the case in the summer of 2004</p> <p>3 when this claim was processed?</p> <p>4 A. Yes.</p> <p>5 Q. Is that still the case today?</p> <p>6 A. Yes.</p> <p>7 Q. You mentioned a few minutes ago the term</p> <p>8 "suffix."</p> <p>9 Can you explain to me from a claims</p> <p>10 perspective what significance that has?</p> <p>11 A. Yes. I think I can. We call each aspect of a</p> <p>12 claim a suffix. Other names for it are features or --</p> <p>13 I'm sorry. I'm drawing a blank what else they're</p> <p>14 called.</p> <p>15 Q. I'm sorry. I didn't mean to interrupt you.</p> <p>16 You're referring to distinct financial</p> <p>17 parts of the claim. Is that correct?</p> <p>18 A. Yes. Each -- the policy that we have here has</p> <p>19 limits and each limit would describe a suffix. The</p> <p>20 building has a limit of X and so we would open, if</p> <p>21 there's damage to the building we would open a suffix</p> <p>22 which is like that feature, building feature with the</p> <p>23 appropriate reserve.</p> <p>24 If it has contents coverage, that would be</p>	33	<p>1 \$225,000 replacement cost with 100 percent</p> <p>2 co-insurance. So she's describing the coverage</p> <p>3 available, but it does not mention what reserve she</p> <p>4 had assigned to it.</p> <p>5 So I don't think that she would have</p> <p>6 assigned the whole 225,000 or I would have received a</p> <p>7 notice of that.</p> <p>8 Q. When Ms. Clodfelter was processing this claim</p> <p>9 in June of 2004, can you tell me all of the computer</p> <p>10 systems, separate screens or different computer</p> <p>11 distinctions Ms. Clodfelter had access to?</p> <p>12 A. As of 2004?</p> <p>13 Q. Yes, sir.</p> <p>14 A. I believe I could, I could take a shot at it.</p> <p>15 There's been some changes in claims and</p> <p>16 procedures, but I can tell you what essentially she</p> <p>17 had for tools at the time.</p> <p>18 Q. Okay.</p> <p>19 A. Do you want these laid out generally, what</p> <p>20 system she has?</p> <p>21 Q. Yes.</p> <p>22 A. Okay. She had access to --</p> <p>23 Q. Let's start with this adjuster remarks system.</p> <p>24 A. Okay. This is part of the CICS. CICS is</p>

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34	<p>1 basically a claim information system. It also has</p> <p>2 capabilities to look at policy provisions and issued</p> <p>3 dates and coverages that she could review to establish</p> <p>4 the amount of the policy that was written.</p> <p>5 Q. In other words, she can pull up dec. sheets and</p> <p>6 forms and that type of thing?</p> <p>7 A. She can't pull up a dec. sheet in CICS. She</p> <p>8 can pull up the basic information that is put in the</p> <p>9 machine, but it's just not put in a dec. sheet format</p> <p>10 and it's not like an image of the dec. sheet.</p> <p>11 At that time she probably did have access,</p> <p>12 may or may not have had access but I believe at that</p> <p>13 time we did have imaging capability so that she could</p> <p>14 have looked at an image that would be the dec. sheet.</p> <p>15 Q. In other words, she would be able to look at</p> <p>16 certain documents relative or relevant to the claim?</p> <p>17 A. Correct, relative to the claim and relative to</p> <p>18 the policy.</p> <p>19 Q. You were talking about the suffix or limits</p> <p>20 screen a few minutes ago.</p> <p>21 Can you explain that to me?</p> <p>22 A. Yes. There's basically a summary screen, claim</p> <p>23 summary screen. If you entered this claim number into</p> <p>24 the CICS and just hit enter, claim information, it</p>	36	<p>1 A. No. No. This would be claim payments.</p> <p>2 Q. Claim payments?</p> <p>3 A. Claim payments, so payments that had been made</p> <p>4 for indemnity payments or for expense payments.</p> <p>5 Q. So we have discussed within the CICS system</p> <p>6 adjuster notes, imaging, summary screen, reserve</p> <p>7 history, payment history?</p> <p>8 A. Yes. Now, imaging is not within the CICS</p> <p>9 system. That would be a separate system that she</p> <p>10 would have to enter.</p> <p>11 Q. So aside from adjuster notes, summary screen,</p> <p>12 reserve history, payment history, what other elements</p> <p>13 to the CICS system would Ms. Clodfelter have had</p> <p>14 access to in 2004?</p> <p>15 A. Did I mention the policy history? Is that one</p> <p>16 of the features that you mentioned?</p> <p>17 Q. It is not. Can you explain that to me?</p> <p>18 A. Yes. In the claims function we basically hit</p> <p>19 the items that we had talked about. She can also</p> <p>20 enter a policy number and bring up the policy</p> <p>21 information, history, the locations that are covered,</p> <p>22 the mailing address, all the typical underwriting</p> <p>23 functions.</p> <p>24 Q. How about premium processing payment dates,</p>
35	<p>1 would come up with a summary of that claim as far as</p> <p>2 the information in it. That would give you the policy</p> <p>3 number, the date of loss, the date it was reported.</p> <p>4 Q. Would it detail any suffixes created for a</p> <p>5 claim?</p> <p>6 A. It would. The first page of it would give you</p> <p>7 I believe up to three suffixes and you would be able</p> <p>8 to tell from that what suffix was created, what the</p> <p>9 reserve was and what the payments had been made on</p> <p>10 that suffix.</p> <p>11 Q. Okay. Aside from adjuster notes, document</p> <p>12 imaging and the summary screen, what other elements to</p> <p>13 the CICS system would Ms. Clodfelter have had access</p> <p>14 to in June of 2004?</p> <p>15 A. Well, the claim information system has several</p> <p>16 different ways that it can present requested</p> <p>17 information, but she would have -- if she had</p> <p>18 requested it, she could request a reserve history.</p> <p>19 She could request a payment history.</p> <p>20 Of course, there's the log note feature</p> <p>21 that she could add to or just review.</p> <p>22 Q. You said payment history?</p> <p>23 A. Yes.</p> <p>24 Q. What do you mean by that? Premium payments?</p>	37	<p>1 would that be in that system?</p> <p>2 A. I don't know. I don't remember. I don't</p> <p>3 recall seeing specific payment information in there,</p> <p>4 but the amount of the premium is in there.</p> <p>5 Q. As far as you know, are there any other</p> <p>6 elements of the CICS system that we have not</p> <p>7 discussed?</p> <p>8 A. I can't think of any relevant to this claim.</p> <p>9 Q. Regardless of whether they're relevant to this</p> <p>10 claim, are there any other elements of the CICS system</p> <p>11 that we have not discussed?</p> <p>12 A. Yes.</p> <p>13 Q. Can you please describe them for me as well?</p> <p>14 A. Unfortunately not since I don't use them. I</p> <p>15 mean, it is used by other elements of the company.</p> <p>16 What I use and what I assume that other claim reps use</p> <p>17 are the claim features and the policy information</p> <p>18 features.</p> <p>19 There are other options that you can use</p> <p>20 or maybe not. I mean, I don't know if they're even</p> <p>21 authorized to go in those places, but there are other</p> <p>22 selections that you could make to go other places. I</p> <p>23 just don't go there because it's not relevant to my</p> <p>24 job.</p>

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38	<p>1 Q. So other than --</p> <p>2 A. But there are other features available. I just</p> <p>3 can't recall them since I don't use them.</p> <p>4 Q. So other than adjuster notes, summary screen,</p> <p>5 reserve history, payment history and policy history,</p> <p>6 are you familiar with any other elements of the CICS</p> <p>7 system?</p> <p>8 A. That's what I'm familiar with.</p> <p>9 Q. So in 2004 Ms. Clodfelter had access to the</p> <p>10 CICS system, the imaging system for Harleysville's</p> <p>11 documents that we discussed, correct?</p> <p>12 A. I believe so.</p> <p>13 Q. Are there any other computer programs or</p> <p>14 databases that Ms. Clodfelter had access to in June</p> <p>15 2004 and afterwards as she processed this claim?</p> <p>16 A. Well, sure. She had access to the normal</p> <p>17 office suite of the Microsoft Office software, so she</p> <p>18 had spreadsheets and Excel and word processing and the</p> <p>19 typical Microsoft Office suite of applications.</p> <p>20 I believe in 2004 we had started using</p> <p>21 SceneAccess, which is a way of assigning claims and</p> <p>22 communicating on claims. I believe that was rolled</p> <p>23 out in 2004. It was a new event for us and I believe</p> <p>24 that had started in 2004.</p>	40	<p>1 Q. It's a computer program?</p> <p>2 A. Yes. It's just we would establish, for</p> <p>3 instance, the property claim manual and it's</p> <p>4 maintained by home office employees, but all claim</p> <p>5 employees can access it.</p> <p>6 Q. As Ms. Clodfelter was adjusting or processing</p> <p>7 this claim in 2004, are there any step-by-step</p> <p>8 instructions that she would have needed to follow in</p> <p>9 processing the claim?</p> <p>10 A. No. Ms. Clodfelter, she's an experienced</p> <p>11 adjuster so any instructions she gets, for instance,</p> <p>12 from Mr. Duncan he doesn't break down in the detail</p> <p>13 you would need to for a trainee, that you need to call</p> <p>14 the insured, you need to take a statement, you need</p> <p>15 to, you know, the basic nuts and bolts of a claim</p> <p>16 handler that you would have to break it down for a</p> <p>17 trainee. Ms. Clodfelter didn't require that.</p> <p>18 Q. In the summer of 2004 how would Harleysville</p> <p>19 have explained to a new claims handler the nuts and</p> <p>20 bolts of processing a claim? Are there any documents</p> <p>21 or materials that would have been provided to a new</p> <p>22 employee?</p> <p>23 A. Well, the property claim manual would be one.</p> <p>24 Resources that they would use? Essentially they would</p>
39	<p>1 So SceneAccess is a way of sending</p> <p>2 assignments to vendors that were on SceneAccess.</p> <p>3 Q. Anything else that Ms. Clodfelter would have</p> <p>4 had access to?</p> <p>5 A. No, I don't believe so.</p> <p>6 Q. Can you explain to me what paper resources</p> <p>7 Ms. Clodfelter would have had access to? Specifically</p> <p>8 I'm referring to policies, procedures, manuals, that</p> <p>9 type of thing.</p> <p>10 A. Most of our procedure manuals are electronic</p> <p>11 and have been for some time, so unless she printed one</p> <p>12 she wouldn't have any paper access to manuals.</p> <p>13 She has, you know, access to building</p> <p>14 estimating guides and that type of thing. She has</p> <p>15 probably her own set of policy forms which are also</p> <p>16 maintained company-wide electronically, but people</p> <p>17 print them for convenience. She may have had that</p> <p>18 available to her.</p> <p>19 Q. Now, when you say that she had access to</p> <p>20 certain manuals or policies electronically, is that a</p> <p>21 computer program, is that another database that she</p> <p>22 would have had access to?</p> <p>23 A. It's not necessarily a database, but it's an</p> <p>24 application that she would have access to.</p>	41	<p>1 get more detailed instruction from their supervisor as</p> <p>2 to exactly what they needed to do.</p> <p>3 Q. Does the claims department have any process or</p> <p>4 procedure as far as proving that something was mailed</p> <p>5 to an insured?</p> <p>6 A. Does the claims department have any procedure</p> <p>7 to prove that things were mailed to an insured?</p> <p>8 Q. Let me ask it this way: Under what</p> <p>9 circumstances is a claims employee required to</p> <p>10 document that something was mailed to an insured or</p> <p>11 someone else and how would they do that?</p> <p>12 A. There's various ways to document that a</p> <p>13 document or anything else was mailed.</p> <p>14 You can put a note in a file. You can</p> <p>15 keep a copy of the correspondence. You can send it</p> <p>16 certified, any number of ways.</p> <p>17 Q. Are there any specific circumstances that would</p> <p>18 require a claims employee to do certain of those</p> <p>19 methods versus other methods or is it just general?</p> <p>20 A. I think the more serious, a document might</p> <p>21 be -- it might be more, it might be more prudent to</p> <p>22 use certified mail as opposed to regular mail, but</p> <p>23 it's not really necessary.</p> <p>24 Q. Are those decisions left to the discretion of</p>

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42	<p>1 the claims employee primarily responsible for handling</p> <p>2 the claim?</p> <p>3 A. Unless directed otherwise.</p> <p>4 Q. Are you familiar with all of the different</p> <p>5 people who were involved in this claim aside from</p> <p>6 Harleysville, people or entities?</p> <p>7 A. I'm not sure who "all" is, so there might be</p> <p>8 people that I'm not aware of and I wouldn't be aware</p> <p>9 of.</p> <p>10 Q. Harleysville hired an independent adjuster in</p> <p>11 this claim. Is that right?</p> <p>12 A. That's correct.</p> <p>13 Q. Do you know who that was?</p> <p>14 A. I believe it was George Tower.</p> <p>15 Q. If I told you his name was George Powell --</p> <p>16 A. Powell with Tower.</p> <p>17 Q. -- with Tower Insurance, would that --</p> <p>18 A. That would work.</p> <p>19 Q. Did Harleysville work frequently with</p> <p>20 Mr. Powell in 2004?</p> <p>21 A. I believe so.</p> <p>22 Q. And Harleysville hired Mr. Powell to be the</p> <p>23 independent adjuster with respect to this claim?</p> <p>24 A. That's correct.</p>	44	<p>1 agree? No.</p> <p>2 Q. Harleysville can deal directly with the</p> <p>3 contractor without the insured's consent? Is that</p> <p>4 fair?</p> <p>5 A. Deal with the contractor in some ways, yes. We</p> <p>6 can contact contractors, we can ask the opinion of</p> <p>7 contractors and in some scenarios we can employ</p> <p>8 contractors.</p> <p>9 Q. And in some scenarios you can employ</p> <p>10 contractors without the insured's consent or not?</p> <p>11 A. We can employ a contractor without the</p> <p>12 insured's consent to do things that do not require the</p> <p>13 insured's consent.</p> <p>14 Q. Can you explain to me when an insured's consent</p> <p>15 is and is not required?</p> <p>16 A. I would think an insured's consent would be</p> <p>17 required as a practical matter any time that you are</p> <p>18 doing work on his property.</p> <p>19 Q. Did Harleysville secure Mr. Drexel's consent to</p> <p>20 have work done on his property in this case?</p> <p>21 A. Reconstructive work?</p> <p>22 Q. Yes, sir.</p> <p>23 A. I haven't seen anything that says that, so my</p> <p>24 answer would have to be not based on the information</p>
43	<p>1 Q. Can you tell me what specific duties Mr. Powell</p> <p>2 was given with respect to this claim?</p> <p>3 A. I believe he was hired to do the investigation</p> <p>4 necessary at the site and to establish the amount of</p> <p>5 damage.</p> <p>6 Q. And what was his role in establishing the</p> <p>7 amount of damage in this claim?</p> <p>8 A. His role as the independent adjuster</p> <p>9 establishing the damage?</p> <p>10 Q. Yes, sir.</p> <p>11 A. That is his role.</p> <p>12 Q. How does he go about doing it?</p> <p>13 A. He could prepare his own estimate using</p> <p>14 commercially available software and with a loss this</p> <p>15 size we would probably request that his estimate be</p> <p>16 agreed to by a contractor.</p> <p>17 Q. Agreed to by whom?</p> <p>18 A. A contractor.</p> <p>19 Q. Is it required that the insured agree to the</p> <p>20 repairs to the property, if necessary?</p> <p>21 A. I think that would be the best scenario, would</p> <p>22 be for everyone to agree as to the scope and price.</p> <p>23 There are times when disagreements occur.</p> <p>24 So is it a requirement that the insured</p>	45	<p>1 I've been provided.</p> <p>2 Q. But you understand that there was</p> <p>3 reconstructive work completed on Mr. Drexel's</p> <p>4 property?</p> <p>5 A. I don't have any knowledge of that, no.</p> <p>6 Q. You don't know that repair work was done to</p> <p>7 Mr. Drexel's property?</p> <p>8 A. I don't know if he's repaired it or not.</p> <p>9 Q. Can you tell me what authority Mr. Powell had</p> <p>10 in this claim?</p> <p>11 A. He had authority to make contact with the</p> <p>12 insured and discuss the claim with the insured. He</p> <p>13 had the authority to contact contractors and negotiate</p> <p>14 an agreement of scope and price to repair the damage.</p> <p>15 Q. He had the authority to negotiate directly with</p> <p>16 the contractor?</p> <p>17 A. Yes.</p> <p>18 Q. Does he have, did he have authority to hire the</p> <p>19 contractor?</p> <p>20 MR. CASARINO: To do what?</p> <p>21 MR. BESTE: To make repairs to the</p> <p>22 property.</p> <p>23 A. No, he did not. He had authority to discuss</p> <p>24 the cost of that repair.</p>

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46	<p>1 Q. Who has the authority to agree to repairs with</p> <p>2 the contractor?</p> <p>3 A. I'm not sure exactly what you're asking.</p> <p>4 Q. I just asked you if Mr. Powell had the</p> <p>5 authority to hire the contractor to do the repair work</p> <p>6 and you said no, right?</p> <p>7 A. That I recall and I just said no.</p> <p>8 Q. Who does have that authority to hire the</p> <p>9 contractor to do the repair work?</p> <p>10 A. The insured.</p> <p>11 Q. What about Harleysville?</p> <p>12 A. Only if we exercise that option under the</p> <p>13 contract, which we have never done in my ten years</p> <p>14 with the company.</p> <p>15 Q. You have never directly hired a contractor?</p> <p>16 A. And taken control of the repair of an insured's</p> <p>17 structure from the insured?</p> <p>18 Q. Yes.</p> <p>19 A. No.</p> <p>20 Q. So Mr. Drexel should have been the one to hire</p> <p>21 the contractor in this case if repairs were done to</p> <p>22 his property?</p> <p>23 A. He should be the one that hires a contractor to</p> <p>24 work on his property, correct.</p>	48	<p>1 adjuster to interact with the contractor and reach an</p> <p>2 agreed price. Is that right?</p> <p>3 A. Correct. Ordinarily the contractor that the</p> <p>4 insured would choose.</p> <p>5 Q. But Harleysville in a typical claim writes the</p> <p>6 check to the contractor. Is that right?</p> <p>7 A. We write the check to the insured.</p> <p>8 Q. So am I correct that your testimony is that the</p> <p>9 only contractual relationship formed is between the</p> <p>10 insured and the contractor?</p> <p>11 A. No. There's a contractual relationship between</p> <p>12 the insured and the insurer.</p> <p>13 Q. I'm sorry. With respect to the agreement to</p> <p>14 repair the property, is your testimony that the only</p> <p>15 two parties involved in that agreement are the insured</p> <p>16 and the contractor?</p> <p>17 A. No.</p> <p>18 Q. Who else is involved in that agreement?</p> <p>19 A. Ordinarily the insurer is involved in</p> <p>20 establishing what's to be repaired and the cost of</p> <p>21 that repair.</p> <p>22 Q. Does Harleysville authorize the insured to</p> <p>23 agree and hire the contractor?</p> <p>24 A. No.</p>
47	<p>1 Q. So as a general matter an insured has the final</p> <p>2 authority to hire a contractor with respect to repairs</p> <p>3 to property? Is that what your testimony is?</p> <p>4 A. That's my testimony in all except a rare</p> <p>5 circumstance where the insurance company does have the</p> <p>6 option to directly repair property.</p> <p>7 Q. But to your knowledge, that circumstance was</p> <p>8 not present in this case?</p> <p>9 A. We did not exercise that option.</p> <p>10 Q. Can you explain to me what Harleysville's role</p> <p>11 is with respect to that hiring of a contractor by the</p> <p>12 insured?</p> <p>13 MR. CASARINO: In this case?</p> <p>14 MR. BESTE: In this case, yes.</p> <p>15 A. If that is contained in these notes, I can find</p> <p>16 it, but I don't have any direct knowledge of</p> <p>17 Harleysville's involvement in hiring the insured's --</p> <p>18 of who the insured hired. I don't know who the</p> <p>19 insured hired.</p> <p>20 Q. The process is, as I understand it,</p> <p>21 Harleysville hired an independent adjuster in this</p> <p>22 case?</p> <p>23 A. Correct.</p> <p>24 Q. And the practice would be for the independent</p>	49	<p>1 Q. But obviously if the insured intends to have</p> <p>2 Harleysville pay for the repairs, he has to get</p> <p>3 Harleysville's approval first?</p> <p>4 A. Correct.</p> <p>5 Q. Prior to the independent adjuster, the insured</p> <p>6 and the contractor reaching an agreed price for</p> <p>7 repairs with respect to a claim, should any repairs</p> <p>8 occur prior to that point?</p> <p>9 A. I think that would have to be case sensitive as</p> <p>10 to what is prudent in each case. There's just too</p> <p>11 many variables for it to be a general statement.</p> <p>12 Q. Did Ms. Clodfelter in 2004 have authority to</p> <p>13 allow repairs to begin prior to an agreement on the</p> <p>14 price as to the repairs of the property?</p> <p>15 A. Did she have authority to allow repairs to</p> <p>16 begin?</p> <p>17 Q. Yes.</p> <p>18 A. Yes.</p> <p>19 Q. But you have no knowledge regarding when the</p> <p>20 repairs did or did not begin in this case?</p> <p>21 A. No, I don't.</p> <p>22 Q. George Powell, can you explain to me the</p> <p>23 relationship between Harleysville and George Powell?</p> <p>24 A. He is a vendor, an independent adjuster that we</p>

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50	<p>1 would hire.</p> <p>2 Q. In this case Mr. Powell was hired to adjust</p> <p>3 this claim, correct?</p> <p>4 A. To adjust I believe the building damage, yes.</p> <p>5 Q. Was Mr. Powell or Tower Insurance an employee</p> <p>6 of Harleysville?</p> <p>7 A. They're a vendor that we used, not an employee.</p> <p>8 Q. Are they an agent of Harleysville when dealing</p> <p>9 with the insured and the contractor?</p> <p>10 MR. CASARINO: I object. That calls for a</p> <p>11 legal conclusion.</p> <p>12 You can answer.</p> <p>13 A. I would think that they are an agent, yeah.</p> <p>14 They're acting within their authority representing us.</p> <p>15 Q. They are, in effect, Harleysville's agent with</p> <p>16 respect to processing the property damage?</p> <p>17 A. That's my understanding.</p> <p>18 Q. And they represent Harleysville in that regard?</p> <p>19 A. That's correct.</p> <p>20 Q. And in this case Mr. Powell represented</p> <p>21 Harleysville with respect to the property damage in</p> <p>22 this case?</p> <p>23 A. That's correct.</p> <p>24 Q. In 2004 were Harleysville's claims handlers</p>	52	<p>1 A. That's correct.</p> <p>2 Q. Is it your opinion that the relationship could</p> <p>3 be confusing from an insured's perspective as a very</p> <p>4 general matter?</p> <p>5 A. From an insured's perspective you can confuse</p> <p>6 anything.</p> <p>7 Q. Do you have any reason to believe that</p> <p>8 Ms. Clodfelter or any other Harleysville employees</p> <p>9 explained to Mr. Drexel that it was him hiring the</p> <p>10 contractor as opposed to Harleysville?</p> <p>11 A. I would, I would expect that at some point that</p> <p>12 that was discussed, but I don't have any documentation</p> <p>13 of it.</p> <p>14 Q. And why would you expect that it was discussed?</p> <p>15 A. Because it's a question that routinely surfaces</p> <p>16 when you're dealing with an insured. It doesn't in</p> <p>17 every case. Some insureds are more sophisticated and</p> <p>18 knowledgeable or have more claims experience and don't</p> <p>19 ask the questions that a less-experienced insured may.</p> <p>20 But based on my experience dealing with</p> <p>21 insureds over the last 30 years, it's a routine</p> <p>22 question that they ask who they should hire.</p> <p>23 Q. Is it a routine occurrence for an insured to be</p> <p>24 confused regarding the relationship between and among</p>
51	<p>1 such as Ms. Clodfelter required to explain to an</p> <p>2 insured the specific nature of the relationship</p> <p>3 between the insured, the contractor, the independent</p> <p>4 adjuster and Harleysville?</p> <p>5 A. I believe that they are required to tell them</p> <p>6 who they have hired and what their function is.</p> <p>7 To what extent that detail you would have</p> <p>8 to explain that to an insured I think is also case</p> <p>9 sensitive. The claim rep would answer any questions</p> <p>10 that were asked about that relationship.</p> <p>11 Q. In 2004 was there any requirement that</p> <p>12 Ms. Clodfelter explain to Mr. Drexel specifically that</p> <p>13 it was his agreement or contract with the contractor</p> <p>14 who was going to do the repairs to the property and</p> <p>15 not Harleysville's contract or agreement?</p> <p>16 A. Would you ask that again?</p> <p>17 Q. In 2004 was Ms. Clodfelter in the process of</p> <p>18 adjusting this claim required to explain to Mr. Drexel</p> <p>19 that it was Mr. Drexel who was hiring the contractor</p> <p>20 and not Harleysville?</p> <p>21 A. I don't think that there was any requirement</p> <p>22 that she do that, but it's a common occurrence.</p> <p>23 Q. It's a common occurrence that that's explained</p> <p>24 to the insured?</p>	53	<p>1 Harleysville, the contractor and the insured with</p> <p>2 respect to who is hiring who?</p> <p>3 A. I'd say that it would be reasonable to assume</p> <p>4 that at some point confusion may have existed, but</p> <p>5 that's confusion that's easily dispelled with a</p> <p>6 question.</p> <p>7 Q. And in 2004 Harleysville did not have any</p> <p>8 requirements that would have required a claims handler</p> <p>9 or employee to inform the insured of the nature of the</p> <p>10 relationship in writing?</p> <p>11 A. No. We had no requirement that they do that.</p> <p>12 Q. Bear with me for one second, please.</p> <p>13 I'm going to show you what has been marked</p> <p>14 as H-5. I apologize, but I'm going to have to show it</p> <p>15 to you in the deposition transcript.</p> <p>16 A. That's all right.</p> <p>17 Q. Who is Brooke Beauman, if you know?</p> <p>18 A. I don't know.</p> <p>19 Q. Who is Marc Good, if you know?</p> <p>20 A. I don't know.</p> <p>21 Q. Are you able to tell whether H-5 pertains to</p> <p>22 Mr. Drexel's claim in this case?</p> <p>23 A. In the subject line it refers to Layne Drexel</p> <p>24 and a policy number.</p>

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54	<p>1 Q. Is that Harleysville's policy number in this</p> <p>2 claim?</p> <p>3 A. That's our format.</p> <p>4 I don't see the policy number repeated on</p> <p>5 this document, so I assume it's correct.</p> <p>6 Q. Okay. That's all.</p> <p>7 I'm going to hand you H-7. Are you able</p> <p>8 to identify that document?</p> <p>9 A. It looks like a confirmation of termination.</p> <p>10 Q. Is that a document generated by Harleysville?</p> <p>11 A. It's got our address on it, so I would say yes.</p> <p>12 MR. CASARINO: Just so you know, the lady</p> <p>13 coming in later today is the one who signed it.</p> <p>14 BY MR. BESTE:</p> <p>15 Q. Do you know who at Harleysville or what</p> <p>16 department would have generated this document?</p> <p>17 A. I know it wasn't claims.</p> <p>18 Q. Do you have any knowledge regarding what led to</p> <p>19 or resulted from this document, what events?</p> <p>20 A. Yes.</p> <p>21 Q. What led to this document being issued by</p> <p>22 Harleysville?</p> <p>23 A. Failure of the insured to pay the premium.</p> <p>24 Q. And what was the impact of that failure to pay</p>	56	<p>1 Q. I'm going to show you what's been marked as</p> <p>2 H-10 and ask you if you can identify this document.</p> <p>3 A. (Reviewing document) This appears to be</p> <p>4 Mr. Powell's final report.</p> <p>5 Q. Final report to whom?</p> <p>6 A. Sherry Clodfelter.</p> <p>7 Q. And does this final report indicate that</p> <p>8 Mr. Powell and the contractor had reached an agreed</p> <p>9 price with respect to the repairs to Mr. Drexel's</p> <p>10 property?</p> <p>11 A. Yes.</p> <p>12 Q. Is H-10 essentially Mr. Powell's request to</p> <p>13 Ms. Clodfelter that the contractor be given authority</p> <p>14 to begin work?</p> <p>15 A. According to his note here, he says the repairs</p> <p>16 are underway, so I would guess not.</p> <p>17 Q. So the repairs appear to have been underway</p> <p>18 on --</p> <p>19 A. That's what it says in his note on the second</p> <p>20 page, page 2.</p> <p>21 Q. Was it essentially a request for payment then?</p> <p>22 A. It doesn't specifically request payment, but</p> <p>23 after the amount of damage is established then that</p> <p>24 would be the next step.</p>
55	<p>1 the premium?</p> <p>2 A. The policy terminated.</p> <p>3 Q. Are you able to tell when this was issued?</p> <p>4 MR. CASARINO: What is "this"?</p> <p>5 MR. BESTE: H-7.</p> <p>6 MR. CASARINO: Okay.</p> <p>7 A. It's got an issued date listed of 7-6-2004 and</p> <p>8 a mail date of 7-7-2004.</p> <p>9 Q. To your knowledge, was the claims department</p> <p>10 aware or notified of this termination?</p> <p>11 A. We were notified.</p> <p>12 Q. How can you tell you were notified?</p> <p>13 A. From the log note on 8-13, that was our</p> <p>14 notification.</p> <p>15 Q. So the claims department did not receive notice</p> <p>16 of this termination or whatever event was occurring as</p> <p>17 reflected in H-7 until August 13th?</p> <p>18 A. That's correct.</p> <p>19 Q. And this was issued in early July of 2004?</p> <p>20 A. Yes. It appears to be.</p> <p>21 Q. Can you explain to me why the claims department</p> <p>22 did not receive notice that the policy was terminated</p> <p>23 in early July?</p> <p>24 A. No, I can't.</p>	57	<p>1 Q. Are you able to tell whether anyone at</p> <p>2 Harleysville received this document and what actions</p> <p>3 they took after receiving it?</p> <p>4 A. (Pause)</p> <p>5 Q. You might want to look at H-1.</p> <p>6 A. Well, I can tell just from the date on it that</p> <p>7 that seemed to spark a request for a check. I'm just</p> <p>8 looking for a date stamp or something else on this</p> <p>9 showing this is a document we received, but I don't</p> <p>10 have any reason to think that we didn't receive this</p> <p>11 because that coincides with the time that a check was</p> <p>12 requested.</p> <p>13 Q. Can you tell me who requested the check?</p> <p>14 A. Yes. Sherry Clodfelter.</p> <p>15 Q. Did Ms. Clodfelter authorize the work to</p> <p>16 Mr. Drexel's property?</p> <p>17 A. I wouldn't think so.</p> <p>18 Q. Did she agree to the price for the repair work?</p> <p>19 A. Yes.</p> <p>20 Q. Did she agree to pay for the repair work?</p> <p>21 A. She attempted to pay for the repair work.</p> <p>22 Q. Did she agree to pay for the repair work?</p> <p>23 A. It doesn't look like it. Apparently, she</p> <p>24 attempted to talk to the insured and left him a voice</p>

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58	<p>1 mail. And there's no note further of any discussion</p> <p>2 with the insured prior to requesting the check for the</p> <p>3 agreed amount of the estimate.</p> <p>4 Q. Did Ms. Clodfelter secure Mr. Drexel's consent</p> <p>5 to move ahead with the repairs to his property?</p> <p>6 A. I don't believe that she did move ahead with</p> <p>7 the repairs to his property.</p> <p>8 Q. But she issued a check. Isn't that right?</p> <p>9 A. She attempted to.</p> <p>10 Q. And it was stopped by someone else at a later</p> <p>11 point?</p> <p>12 A. That's right. She may have stopped it herself.</p> <p>13 Q. But at some point she authorized the check to</p> <p>14 be sent out to pay the claim?</p> <p>15 A. Correct.</p> <p>16 Q. Did she reach an agreement with the contractor</p> <p>17 regarding those repairs?</p> <p>18 A. It appears that Mr. Powell reached an agreement</p> <p>19 with the contractor on the scope and amount of repair</p> <p>20 and this payment is based on that agreement or this</p> <p>21 attempted payment.</p> <p>22 Q. I'm going to show you what's been marked as</p> <p>23 H-13.</p> <p>24 Let me know if you need to take a break or</p>	60	<p>1 unscheduled personal property unless there is no</p> <p>2 coverage for that. But it is --</p> <p>3 Q. And by "unscheduled" you mean not separately</p> <p>4 listed in the policy?</p> <p>5 A. Contents typically is a more generic way of</p> <p>6 describing unscheduled personal property.</p> <p>7 Q. Do you know what the suffix 02 specifically</p> <p>8 pertained to?</p> <p>9 A. Not from what I have here.</p> <p>10 Q. What else did --</p> <p>11 A. I can tell you that according to her note she</p> <p>12 doesn't describe any contents coverage at that</p> <p>13 location but does describe business interruption</p> <p>14 coverage, so it's more likely that it would be a</p> <p>15 request to establish a reserve on business</p> <p>16 interruption coverage.</p> <p>17 Q. And business interruption coverage under this</p> <p>18 policy would have included lost rent?</p> <p>19 A. Well, unless it is excluded, yes. There are</p> <p>20 ways to purchase business interruption coverage</p> <p>21 excluding it or limiting it to lost rent.</p> <p>22 Q. According to this August 11th e-mail from</p> <p>23 Ms. Staton, and I'm going to read you exactly what the</p> <p>24 e-mail says, Mr. Drexel's, quote, policy was canceled</p>
59	<p>1 anything.</p> <p>2 A. I'm okay.</p> <p>3 Q. Are you able to identify this document?</p> <p>4 A. It appears to be an e-mail to Ms. Clodfelter</p> <p>5 from Amber Staton.</p> <p>6 Q. Do you know who Amber Staton is?</p> <p>7 A. No.</p> <p>8 Q. If you look at the first e-mail on page 2, the</p> <p>9 first e-mail in the chain, that's an e-mail from</p> <p>10 Ms. Staton to Sherry Clodfelter, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And it pertains to Mr. Drexel's claim?</p> <p>13 A. Yes.</p> <p>14 Q. The first sentence says, "I" I think it's</p> <p>15 "received suffix 02 to coverage verify."</p> <p>16 Do you understand what that sentence</p> <p>17 means, what she meant by that?</p> <p>18 A. I can guess what it means.</p> <p>19 Q. Okay. Try to tell me to the best you can what</p> <p>20 that sentence means.</p> <p>21 A. I'm not sure how Amber gets her work. Things</p> <p>22 appear on her desk. But apparently she received</p> <p>23 something that would cause her to verify coverage for</p> <p>24 suffix 2, which would be unscheduled, usually it's</p>	61	<p>1 effective June 8th, '04 for non-payment of premium."</p> <p>2 Is that right?</p> <p>3 MR. CASARINO: Is what right? Is that</p> <p>4 what it says?</p> <p>5 MR. BESTE: Yes.</p> <p>6 BY MR. BESTE:</p> <p>7 Q. Is that what it says?</p> <p>8 A. Where are you?</p> <p>9 Q. The last e-mail.</p> <p>10 A. You might have paraphrased it.</p> <p>11 MR. CASARINO: Let me say that I object to</p> <p>12 this as being beyond the scope of the purpose of his</p> <p>13 deposition.</p> <p>14 He can certainly answer it for other</p> <p>15 purposes.</p> <p>16 A. What it says is "I noticed on direct bill it</p> <p>17 shows that the policy was canceled effective 6-8-04</p> <p>18 for non-payment of premium and the date of loss is</p> <p>19 6-22-04. Shouldn't this claim be no coverage?"</p> <p>20 Q. Does the phrase "no coverage" have some</p> <p>21 specific meaning? It's capitalized in the e-mail.</p> <p>22 A. Yes, it does. You can open a claim for</p> <p>23 investigation when there is no coverage indicated in</p> <p>24 the event of a dispute or something like that. Where</p>

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62	<p>1 our claim system shows that coverage does not exist, 2 we can still open a claim for the purpose of 3 investigating that, but you would open it as a no 4 coverage claim until, unless and until the coverage is 5 accepted. 6 Q. And once a claim is classified as no coverage, 7 is it accurate to say that no payments will be made 8 with respect to that claim until that no coverage 9 status has been changed by someone at Harleysville? 10 A. Correct. 11 Q. What steps should have Ms. Clodfelter taken 12 upon receiving the e-mail, this e-mail? 13 A. I think she should have contacted the sender 14 and determined what additional information she may 15 have regarding a coverage problem. 16 Q. Now, this e-mail was sent by Ms. Staton on 17 August 11th, isn't that true, according to the e-mail? 18 A. Yes. August 11, 2004. 19 Q. Can you explain to me why Ms. Clodfelter would 20 have issued a check two days later on August 13th in 21 light of this e-mail? 22 A. I don't have any knowledge of why she didn't. 23 It appears that she didn't act on it until August 24 13th.</p>	64	<p>1 Q. Can you explain what direct bill is? 2 A. It doesn't have anything to do with the claims 3 department, but I can tell you what direct bill means 4 to me. 5 Q. Okay. Please tell me. 6 A. Direct bill is when we send an invoice directly 7 to the insured as opposed to having the agent submit 8 an invoice to the insured. So we would send an 9 invoice for the policy premium and the insured would 10 send the payment directly back to the company for 11 processing as opposed to using the agent as an 12 intermediary. 13 Q. Do you know whether Mr. Drexel's policy was 14 directly billed to him or whether it was done through 15 an agent? 16 A. I don't have any knowledge of that, other than 17 Amber's mentioning that she noted direct bill so I 18 would assume since she's talking about this claim and 19 this policy that it would be on direct bill. 20 That would be my only indication of it. 21 Q. Do the claims adjusters have access to a direct 22 bill system or database? 23 A. No. No. 24 Well, I take that back. Let me think</p>
63	<p>1 Q. Does the claims department have authority or 2 the ability to put a claim into no coverage? 3 A. I believe they can. But they work in concert 4 with home office claims entry to do it but, yes, I 5 think they do have the ability to put it in as no 6 coverage. 7 Q. If you look on the first page, there's an 8 August 17th e-mail from Amber Staton to Sherry 9 Clodfelter, and I'm paraphrasing. It asks Sherry 10 whether Amber Staton should put the claim into no 11 coverage. 12 Do you know why Amber would have been 13 making that request? 14 A. I guess she needed to plan -- it's a guess 15 since I don't really understand fully Amber's 16 function. But should the claim require additional 17 investigation and no coverage is indicated, then that 18 would be a way to keep the claim file essentially 19 opened under a no coverage without having an 20 outstanding reserve on it. 21 Q. Referring back to the last e-mail on page 2, 22 Ms. Staton refers to the phrase direct bill, which is 23 capitalized. 24 A. Yes.</p>	65	<p>1 about it. 2 I don't know. I've never -- there are 3 some features of CICS that I told you that I'm not 4 familiar with and it's possible that that's one of 5 them, but I never used it. 6 Q. Do you know directly whether Ms. Clodfelter had 7 access to the direct bill system or database in 2004? 8 A. I don't know. 9 Q. I'm going to hand you what's been marked as 10 H-14. 11 Are you able to identify this document? 12 A. No. It appears to be generated using the CICS 13 system just looking at the font layout of the 14 characters at the top. 15 Q. Would this document have been something that 16 Ms. Clodfelter had access to when she was processing 17 this claim? 18 A. I don't know. I can't tell what screen this 19 came off of. This is not something that would be 20 included in the claims system. 21 Q. Is this a direct bill printout or screen shot? 22 A. I don't know. 23 Q. On page 1 a little above the middle there's a 24 phrase there that says, "non-pay count 2."</p>

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66	<p>1 Do you see that?</p> <p>2 MR. CASARINO: I don't.</p> <p>3 A. I don't.</p> <p>4 MR. CASARINO: What are you talking about?</p> <p>5 A. If you would just point it out and help me out</p> <p>6 there.</p> <p>7 Q. (Indicating)</p> <p>8 A. Okay. I see it.</p> <p>9 Q. Do you know what that phrase means?</p> <p>10 A. I have no idea.</p> <p>11 Q. Are you able to explain any of this document to</p> <p>12 me, either page, what the notations mean, what the</p> <p>13 dates mean, things like that?</p> <p>14 A. I don't have any direct knowledge of it. I can</p> <p>15 tell you what it means to me.</p> <p>16 Q. Do you understand what the notations on the</p> <p>17 second page listed under the heading type mean?</p> <p>18 A. I don't know what those notations mean. I</p> <p>19 don't know what a C554-3 is, although I think I may</p> <p>20 have seen one pass by.</p> <p>21 Q. You're referring to H-7?</p> <p>22 A. This is a C554, the confirmation of</p> <p>23 termination.</p> <p>24 Q. You're referring to H-7?</p>	68	<p>1 letter is or was?</p> <p>2 A. To advise him that we would not be extending</p> <p>3 coverage for the damage from the fire of 6-22.</p> <p>4 Q. Did Ms. Clodfelter inform Mr. Drexel that the</p> <p>5 policy was canceled for non-payment of premium?</p> <p>6 A. This letter advises him.</p> <p>7 Q. To your knowledge, is that what happened in</p> <p>8 this case?</p> <p>9 A. What's that?</p> <p>10 Q. That the policy was canceled for non-payment of</p> <p>11 premium?</p> <p>12 A. Well, that's not what happened. The policy was</p> <p>13 terminated, not canceled.</p> <p>14 Q. What is your understanding of the impact of</p> <p>15 that distinction in this case?</p> <p>16 A. When a policy is terminated, it just ends, it's</p> <p>17 just over.</p> <p>18 Cancellation to me suggests that a policy</p> <p>19 is interrupted during the policy period.</p> <p>20 Q. Are you familiar with any provisions in</p> <p>21 Mr. Drexel's policy that that distinction would be</p> <p>22 relevant to?</p> <p>23 A. Yes.</p> <p>24 Q. What provision is that?</p>
67	<p>1 A. That's correct.</p> <p>2 So that's what your notation at the top</p> <p>3 with the date 7-6-04 would indicate, I assume, is that</p> <p>4 document.</p> <p>5 Q. Do you know who Bob Southard is, Robert</p> <p>6 Southard?</p> <p>7 A. I think I do, yes.</p> <p>8 Q. Who is he?</p> <p>9 A. He is -- if I'm not mistaken, Bob Southard is</p> <p>10 some type of underwriting manager or vice president in</p> <p>11 the southeast. I believe he's in Atlanta.</p> <p>12 I hope I haven't gotten him confused with</p> <p>13 somebody who is a vice president in Atlanta.</p> <p>14 Q. I won't tell him if you did.</p> <p>15 A. Yes, you will.</p> <p>16 Q. I promise I will not.</p> <p>17 I'm going to hand you what's been marked</p> <p>18 as H-16 and ask you if you can identify this document.</p> <p>19 A. (Reviewing document) This appears to be a</p> <p>20 denial of coverage.</p> <p>21 Q. And this was sent by Ms. Clodfelter to</p> <p>22 Mr. Drexel on September 14th?</p> <p>23 A. That's what it says.</p> <p>24 Q. And can you tell me what the purpose of this</p>	69	<p>1 A. Well, I believe there are -- I believe the</p> <p>2 conditions section of the policy addresses how we</p> <p>3 would have to give notice for cancellation of the</p> <p>4 policy.</p> <p>5 Q. Does the claims department of Harleysville have</p> <p>6 authority in determining how to comply with policy</p> <p>7 provisions when a policy is being canceled or</p> <p>8 terminated?</p> <p>9 A. Not really. The claims department doesn't</p> <p>10 directly cancel a policy.</p> <p>11 Q. Who does?</p> <p>12 A. I would assume that that would be an</p> <p>13 underwriting function.</p> <p>14 Q. Do you know where Ms. Clodfelter got the</p> <p>15 information upon which you based this letter?</p> <p>16 A. The obvious assumption based on what I have</p> <p>17 been handed would be from Ms. Staton or from any</p> <p>18 conversation she might have had with an underwriter.</p> <p>19 Q. Do you know where she got the, quote, effective</p> <p>20 date of cancellation was, unquote, June 8th, 2004?</p> <p>21 Do you know where she got that information</p> <p>22 from?</p> <p>23 A. I'm sorry. I was looking elsewhere. Would you</p> <p>24 mind restating that?</p>

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70	<p>1 Q. Ms. Clodfelter's letter of September 14th</p> <p>2 indicates the effective date of the cancellation is</p> <p>3 June 8th, 2004, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know where she got that date from?</p> <p>6 A. The one place would be Exhibit H-13, the first</p> <p>7 e-mail in the string from Amber Staton says that the</p> <p>8 policy was canceled effective 6-8-04. There's</p> <p>9 probably other places that she could go to verify</p> <p>10 that.</p> <p>11 If that information had been updated on</p> <p>12 the CICS system, she could go there to verify it as</p> <p>13 well.</p> <p>14 Q. Is that where she would get Harleysville's</p> <p>15 official cancellation date, the CICS system?</p> <p>16 A. That's certainly one place that she could go to</p> <p>17 get it, yes.</p> <p>18 Q. What would be the ultimate authority that</p> <p>19 Ms. Clodfelter would have looked to regarding when the</p> <p>20 effective date of cancellation was?</p> <p>21 MR. CASARINO: That she did look to or</p> <p>22 would have looked to? I'm not sure I understand your</p> <p>23 question. That she might have looked to?</p> <p>24 A. Where might she go?</p>	72	<p>1 that's all consistent with our system.</p> <p>2 Q. Would Ms. Clodfelter have had access to the</p> <p>3 information reflected in H-19 when she was processing</p> <p>4 this claim?</p> <p>5 A. I don't think so.</p> <p>6 Q. Why not? I thought you said this was part of</p> <p>7 the CICS system.</p> <p>8 A. It is. But I don't think we have access to all</p> <p>9 parts of the CICS system. Part of the beauty of any</p> <p>10 large organization is you have certain permissions to</p> <p>11 go to different places and there's some that the</p> <p>12 computer won't take you to.</p> <p>13 For instance, I couldn't go into human</p> <p>14 resources and look at everybody else's performance</p> <p>15 reviews. Information is limited to a need to know.</p> <p>16 Q. So your testimony is that none of the claims</p> <p>17 employees would have had access to the information</p> <p>18 reflected in H-19 as this claim was adjusted?</p> <p>19 A. My testimony is I don't know if they would or</p> <p>20 not. I have never used it. I have never used this</p> <p>21 function that would generate this screen. So I don't</p> <p>22 know where it's located and, therefore, wouldn't know</p> <p>23 who would have access to what because certainly not</p> <p>24 all claims employees have the same permissions.</p>
71	<p>1 Q. When Ms. Clodfelter was adjusting this claim in</p> <p>2 August of 2004 and she needed to determine what the</p> <p>3 effective date of cancellation was, where would she</p> <p>4 look to have absolute confirmation of what the date</p> <p>5 was?</p> <p>6 A. She would go to an underwriter.</p> <p>7 Q. So she would need to ask the underwriting</p> <p>8 department what Harleysville's official effective date</p> <p>9 of cancellation was?</p> <p>10 A. Yes.</p> <p>11 Q. And the claims department has no authority to</p> <p>12 establish that date?</p> <p>13 A. No, we don't.</p> <p>14 Q. I'm going to hand you what's been marked as</p> <p>15 H-19 and ask if you can identify that document.</p> <p>16 A. It appears to be a document generated by CICS</p> <p>17 using one of the features that I don't use, so I can't</p> <p>18 tell you exactly what this is.</p> <p>19 Q. How can you tell this comes from the CICS</p> <p>20 system?</p> <p>21 A. Because it's got a pretty distinctive,</p> <p>22 primitive font and the functions down below and the</p> <p>23 prompts, whether there is like more to it or what</p> <p>24 function keys to hit to go to different locations,</p>	73	<p>1 I have permissions to go places some other</p> <p>2 claims employees don't.</p> <p>3 Q. So you have no knowledge regarding whether</p> <p>4 Ms. Clodfelter would have had access to the</p> <p>5 information shown in H-19 while she was adjusting this</p> <p>6 claim?</p> <p>7 A. She would not, in my opinion she would not have</p> <p>8 had any reason to generate such a document.</p> <p>9 Q. Well, my question is whether she had access to</p> <p>10 the information whether she could have generated the</p> <p>11 document if she wanted to for some reason?</p> <p>12 A. And my answer is I don't know if she had access</p> <p>13 or not. I don't keep the permissions.</p> <p>14 Q. Ms. Clodfelter's supervisor was Danny Riddle in</p> <p>15 the summer of 2004. Is that correct?</p> <p>16 A. I don't know for sure. I can see in the claim</p> <p>17 notes that she received the initial assignment</p> <p>18 information from John Duncan, who is the other</p> <p>19 property supervisor, but then Mr. Riddle is also in</p> <p>20 here. I don't know if she changed from one to another</p> <p>21 or whether Mr. Duncan was covering for Danny during a</p> <p>22 vacation.</p> <p>23 I really don't know.</p> <p>24 Q. Do you know whether Mr. Riddle would have had</p>

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74	<p>1 access to the information reflected in Exhibit H-19 in</p> <p>2 the summer of 2004?</p> <p>3 A. No, I don't know if he would or not.</p> <p>4 Q. Do you know whether Mr. Duncan would have had</p> <p>5 access to the information shown on Exhibit H-19?</p> <p>6 A. I don't know.</p> <p>7 Q. Are you able to identify the handwriting on the</p> <p>8 first page?</p> <p>9 A. No. It's not mine. I can read it.</p> <p>10 Q. I've probably got about fifteen minutes left.</p> <p>11 Do you want to take a short break?</p> <p>12 MR. CASARINO: Yes.</p> <p>13 A. We can do that.</p> <p>14 (A brief recess was taken.)</p> <p>15 MR. BESTE: I'm going to ask that this</p> <p>16 document be marked as H-24.</p> <p>17 MR. CASARINO: What is it?</p> <p>18 MR. BESTE: This is the best practices</p> <p>19 manual.</p> <p>20 (H Deposition Exhibit No. 24 was marked</p> <p>21 for identification.)</p> <p>22 BY MR. BESTE:</p> <p>23 Q. I'm going to hand you what's been marked as</p> <p>24 H-24 and ask if you can identify that document.</p>	76	<p>1 A. What does yours look like?</p> <p>2 Q. I think one more page.</p> <p>3 At the top it says Best Practices Claims</p> <p>4 Manual, CCU Claims and on the right side it says under</p> <p>5 Topic CCU Property Claims Handling.</p> <p>6 MR. CASARINO: I'm not sure I got the</p> <p>7 right one. Let's see it for a second.</p> <p>8 A. There (indicating)? Telephone Loss Reports?</p> <p>9 Q. Yes.</p> <p>10 A. Okay.</p> <p>11 MR. CASARINO: Okay.</p> <p>12 Q. Can you tell me whether this page applied to</p> <p>13 Mr. Drexel's claim?</p> <p>14 A. I would assume it did, yes.</p> <p>15 Q. Does this page and the page that follows</p> <p>16 basically detail what Ms. Clodfelter's</p> <p>17 responsibilities were at the time she was processing</p> <p>18 Mr. Drexel's claim?</p> <p>19 A. Not exactly. His loss came in initially to the</p> <p>20 CCU, which is who -- this individual, K. Slonake, I</p> <p>21 would assume would be a CCU employee in the initial</p> <p>22 action unit, the central claims unit. It is</p> <p>23 essentially a telephone small claims unit, but they do</p> <p>24 get the first reports and establish the amount of</p>
75	<p>1 A. It appears to be our best practices claims</p> <p>2 handling manual, a printed copy of it.</p> <p>3 Q. On the cover page it says May 2004 Edition.</p> <p>4 Does that mean it was effective May 2004?</p> <p>5 A. I would assume it was, yes.</p> <p>6 Q. So this policy, I'm sorry, this manual would</p> <p>7 have been in place at the time of Mr. Drexel's claim?</p> <p>8 A. That's correct.</p> <p>9 Q. Can you explain to me what this is from a</p> <p>10 claims employee perspective? Is this instructions?</p> <p>11 Is this a reference guide? What is it?</p> <p>12 A. It is -- it's a reference guide. It</p> <p>13 establishes procedures and time frames for completing</p> <p>14 tasks.</p> <p>15 Q. Is it something that the claims employees are</p> <p>16 required to follow or is it more of a looser guideline</p> <p>17 for them?</p> <p>18 A. Well, it's a procedure that they're instructed</p> <p>19 to follow and should the majority of the time.</p> <p>20 Q. The pages are not numbered.</p> <p>21 MR. CASARINO: Because it's a computer</p> <p>22 screen.</p> <p>23 Q. If you could turn to the page, counting the</p> <p>24 cover, page 8.</p>	77	<p>1 damage so they know whether it's a large or small loss</p> <p>2 and whether they retain it or not isn't clear until</p> <p>3 they talk to somebody. So they do make the first</p> <p>4 contacts.</p> <p>5 So, yes, they would have called him and</p> <p>6 there's some guidelines for how to make a telephone</p> <p>7 call.</p> <p>8 Q. But this would not have applied to</p> <p>9 Ms. Clodfelter; it would only have applied to this</p> <p>10 CCU?</p> <p>11 A. Well, this addresses the CCU property claims</p> <p>12 handling, so it's specific to them. That doesn't mean</p> <p>13 that similar claims handling practices wouldn't apply</p> <p>14 to Ms. Clodfelter, but this is specifically directed</p> <p>15 to the CCU and Ms. Clodfelter is a member of the CSC,</p> <p>16 southeast claims service center.</p> <p>17 Q. While looking through Exhibit 24 as a whole,</p> <p>18 can you tell me what pages or topics would have</p> <p>19 applied to Ms. Clodfelter and Mr. Riddle when they</p> <p>20 were adjusting Mr. Drexel's claim?</p> <p>21 A. You want me to go page by page?</p> <p>22 Q. Maybe you can explain to me how I would look</p> <p>23 through this and determine whether any of this applied</p> <p>24 to Ms. Clodfelter when she was adjusting Mr. Drexel's</p>

20 (Pages 74 to 77)

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78	<p>1 claim.</p> <p>2 A. I would look for things that addressed CSC</p> <p>3 handling, property claim handling in a similar fashion</p> <p>4 to the CCU. That would probably be at the top of the</p> <p>5 page. I would look for anything that specifically</p> <p>6 related to property claims, first party property.</p> <p>7 Q. Why don't we try it this way? If you look at</p> <p>8 page 3, there appears to be an index.</p> <p>9 A. Okay.</p> <p>10 Q. Do you see that?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Can you go through by chapter and explain to me</p> <p>13 whether these specific chapters listed apply to CSC</p> <p>14 employees such as Ms. Clodfelter at the time of this</p> <p>15 claim?</p> <p>16 A. Okay. Chapter 2 would apply to her.</p> <p>17 Specifically, you have CSC property claims handling</p> <p>18 and a document number there for that.</p> <p>19 Q. You're referring to HA090298?</p> <p>20 A. Correct.</p> <p>21 Recorded statement guidelines would apply</p> <p>22 to her, HA090291.</p> <p>23 Q. As far as chapter 2 goes, there are a number of</p> <p>24 entries after the CSC property claims handling entry.</p>	80	<p>1 Q. Approximately twenty pages in.</p> <p>2 A. CSC claims?</p> <p>3 MR. CASARINO: No. A few pages in. Keep</p> <p>4 going. Recorded statements.</p> <p>5 It's before that.</p> <p>6 That may be it.</p> <p>7 Q. I think that's it.</p> <p>8 So just for the record, the top of that</p> <p>9 page says Best Practices Claims Manual, CSC Claims,</p> <p>10 Topic Property Claims Handling.</p> <p>11 A. Correct.</p> <p>12 Q. Would this document spell out and explain what</p> <p>13 Ms. Clodfelter's general responsibilities were in</p> <p>14 processing Mr. Drexel's claim?</p> <p>15 A. Yes.</p> <p>16 Q. And under the heading Coverage Verification,</p> <p>17 this required Ms. Clodfelter to verify that coverage</p> <p>18 was in place as of the date of the loss. Is that</p> <p>19 correct?</p> <p>20 A. Yes. That's correct.</p> <p>21 Q. If you look under the heading CSC Contact,</p> <p>22 there's some wording that says, "During initial</p> <p>23 contact with insured."</p> <p>24 Do you see that?</p>
79	<p>1 A. Yes.</p> <p>2 Q. All of the remaining things in chapter 2 after</p> <p>3 that deal with either worker's compensation or</p> <p>4 recorded statements. Isn't that correct?</p> <p>5 A. That's what it looks like, yes.</p> <p>6 Q. There was no statement taken from Mr. Drexel in</p> <p>7 this case, to your knowledge?</p> <p>8 A. I haven't seen one.</p> <p>9 Q. Now, chapter 3 --</p> <p>10 A. That doesn't mean one hasn't been taken. I</p> <p>11 just haven't seen one.</p> <p>12 Q. For the record, I don't think one has.</p> <p>13 How about chapter 3, does any of that</p> <p>14 apply to Ms. Clodfelter when she was adjusting this</p> <p>15 claim?</p> <p>16 A. CSC diary procedures and that's specifically</p> <p>17 material damage and property requirements by CSC.</p> <p>18 She's in the southeast CSC, so the one that would</p> <p>19 specifically apply to her would be HA090312.</p> <p>20 Q. All right. Going back to chapter 2, the CSC</p> <p>21 property claims handling part of that chapter, are you</p> <p>22 able to locate that within H-24? And I think it's</p> <p>23 about there (indicating) to make it easier for you.</p> <p>24 A. "About there"? That doesn't help me.</p>	81	<p>1 A. Mm-hmm. Yes.</p> <p>2 Q. Can you explain to me what that paragraph would</p> <p>3 have required Ms. Clodfelter to do when processing</p> <p>4 Mr. Drexel's claim?</p> <p>5 A. Essentially it would require her to explain the</p> <p>6 process in general terms, especially what the coverage</p> <p>7 affords to the insured and what her approach to</p> <p>8 establishing or completing the investigation and</p> <p>9 establishing the damage, what that was going to entail</p> <p>10 so the insured would know what to expect.</p> <p>11 Q. Okay. It says, does it not, "the claim process</p> <p>12 must be explained in detail"?</p> <p>13 A. Yes.</p> <p>14 Q. Are you able to tell from H-1, the adjuster</p> <p>15 notes, whether Ms. Clodfelter complied with this</p> <p>16 paragraph when she initially processed this claim?</p> <p>17 A. She doesn't document in here in what I would</p> <p>18 call detail her conversation with the insured.</p> <p>19 Q. The paragraph that we're referring to required</p> <p>20 Ms. Clodfelter to explain to Mr. Drexel the</p> <p>21 relationship between Harleysville, Tower Insurance,</p> <p>22 the contractor and Mr. Drexel?</p> <p>23 MR. CASARINO: It says, "During initial</p> <p>24 contact." You're asking at that time?</p>

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82	<p>1 MR. BESTE: Yes.</p> <p>2 MR. CASARINO: All right.</p> <p>3 A. Well, what this says is that the claim process</p> <p>4 must be explained in detail. Now, we understand that</p> <p>5 detail is a relative term and the person that drives</p> <p>6 the degree of detail in these cases is the insured</p> <p>7 because the claim rep understands this stuff. So how</p> <p>8 far down you break it down to an individual is</p> <p>9 strictly driven by the questions asked by the insured</p> <p>10 in my experience.</p> <p>11 Q. But doesn't this paragraph place an affirmative</p> <p>12 requirement, if you will, on the claims adjuster to</p> <p>13 explain the claims process to the insured in detail?</p> <p>14 A. That's what it says. And that's correct. I</p> <p>15 mean, the insured -- or the claim rep has the</p> <p>16 responsibility to make contact with the insured and</p> <p>17 not only secure information as to what occurred but to</p> <p>18 discuss the claim process with the insured so they</p> <p>19 understand what she needs and how she's going to go</p> <p>20 about getting it.</p> <p>21 Now, the degree of detail is pretty much</p> <p>22 driven by the insured. Some insureds know exactly</p> <p>23 what to expect and some don't know what to expect, so</p> <p>24 you get either no questions or you get a copious</p>	84	<p>1 that the insured understands the relationship at this</p> <p>2 stage of the process?</p> <p>3 A. I don't know that I understand what you said</p> <p>4 about an affirmative obligation.</p> <p>5 How did you phrase that?</p> <p>6 Q. The question is basically whether the claims</p> <p>7 handler has an affirmative obligation to make sure at</p> <p>8 this stage, the initial contact stage, that the</p> <p>9 insured understands the expected relationship between</p> <p>10 the insured and the contractor?</p> <p>11 A. I don't think this says anything like that.</p> <p>12 This says that the claim process must be explained in</p> <p>13 detail. It doesn't say anything about relationships.</p> <p>14 So if that question had been raised at</p> <p>15 this point like, for instance, in the normal course,</p> <p>16 we need to establish the damage or the amount of</p> <p>17 damage to your building and if the insured asks well,</p> <p>18 how do you propose to do it, which of course is a</p> <p>19 normal question, what's your plan, in this instance</p> <p>20 they may say that they're hiring an independent</p> <p>21 adjuster to establish the amount of damage and they're</p> <p>22 going to ask them to reach an agreed value with a</p> <p>23 contractor.</p> <p>24 And that would just lead to other</p>
83	<p>1 amount of questions. It's driven by the insured.</p> <p>2 You don't -- it's been my experience that</p> <p>3 when you're on a phone with someone you don't</p> <p>4 necessarily burden someone that doesn't have an</p> <p>5 interest in things in the minutiae of how you're going</p> <p>6 to do your job. They'll ask you what they're</p> <p>7 concerned about.</p> <p>8 Now, it's the claims rep's responsibility</p> <p>9 to initiate that conversation and be sure the insured</p> <p>10 has an opportunity to ask questions based on her</p> <p>11 summary of what she plans to do.</p> <p>12 Q. At this stage of the process as reflected in</p> <p>13 this paragraph, is it the claims handler's</p> <p>14 responsibility to explain to the insured the nature of</p> <p>15 the insured's relationship with a contractor who would</p> <p>16 do work to repair a property?</p> <p>17 A. If that question was asked, yes.</p> <p>18 Q. So if the insured did not ask about the</p> <p>19 specifics of that relationship, it would not be</p> <p>20 explained to the insured?</p> <p>21 A. It may be or may not be, but it certainly would</p> <p>22 be had the question been asked.</p> <p>23 Q. Does the claims handler have an affirmative</p> <p>24 obligation to explain that relationship or to ensure</p>	85	<p>1 questions: Are you going to hire a contractor? Am I</p> <p>2 going to hire a contractor? Do you have a contractor</p> <p>3 in mind? There isn't, there isn't any single set or</p> <p>4 claim handling procedure. It would be a booklet that</p> <p>5 you would have to send to each person that would</p> <p>6 entail or cover all situations. That's really</p> <p>7 burdensome to most insureds. They just would prefer</p> <p>8 to have their questions answered.</p> <p>9 So that essentially is what this is for,</p> <p>10 is to establish that contact so their questions can be</p> <p>11 answered.</p> <p>12 MR. BESTE: I'm going to ask that this</p> <p>13 next document be marked as H-25, and this is the</p> <p>14 property claim manual.</p> <p>15 MR. CASARINO: Dated May 2005.</p> <p>16 (H Deposition Exhibit No. 25 was marked</p> <p>17 for identification.)</p> <p>18 BY MR. BESTE:</p> <p>19 Q. Are you able to identify H-25?</p> <p>20 A. This is the Harleysville property claim manual,</p> <p>21 a print of it. It exists in electronic format. May</p> <p>22 2005 edition.</p> <p>23 Q. So effective May 2005 claims employees would</p> <p>24 have access to this by a computer system?</p>

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86	<p>1 A. Correct.</p> <p>2 Q. So this document did not take effect until May</p> <p>3 of 2005. Is that correct, as far as you can tell?</p> <p>4 A. That would be the last time it was revised,</p> <p>5 that's correct.</p> <p>6 MR. CASARINO: It was effective at the</p> <p>7 time. If you look inside, you will see the updates,</p> <p>8 the first page.</p> <p>9 BY MR. BESTE:</p> <p>10 Q. So this is, in essence, a list of a collection</p> <p>11 of documents which are updated at various times as</p> <p>12 reflected on the index?</p> <p>13 A. Correct.</p> <p>14 Q. How did this specific document come to be</p> <p>15 produced? Did you print this personally?</p> <p>16 A. No.</p> <p>17 Q. Do you know who did?</p> <p>18 A. No.</p> <p>19 Q. Could you turn to page 23, please?</p> <p>20 A. Certainly.</p> <p>21 Q. The third paragraph references PLRB. Could you</p> <p>22 explain to me what PLRB is?</p> <p>23 A. PLRB stands for Property Loss Research Bureau.</p> <p>24 It is supported by membership of a group of insurers</p>	88	<p>1 They also have training modules online</p> <p>2 that a claim employee might access so they would have</p> <p>3 a better understanding of whatever was being discussed</p> <p>4 in the training module. It could be construction. It</p> <p>5 could be types of policies. It could be any number of</p> <p>6 topics that are on their system.</p> <p>7 They also have a library of coverage</p> <p>8 issues and questions that arise and they have</p> <p>9 organized it so that you can tell essentially what the</p> <p>10 issues are in making a coverage determination in some</p> <p>11 instances and what venues have gone this way and what</p> <p>12 have gone that way, so it could be a pretty</p> <p>13 comprehensive discussions about different issues.</p> <p>14 Q. By "venues" you mean jurisdictions?</p> <p>15 A. Correct.</p> <p>16 Q. Does PLRB provide Harleysville claims employees</p> <p>17 with legal advice?</p> <p>18 A. No. They supply us with information on legal</p> <p>19 issues, but they do not provide us a legal opinion.</p> <p>20 We don't hire them as we would a coverage attorney.</p> <p>21 Q. Under any circumstances?</p> <p>22 A. I don't think they -- I don't think you can. I</p> <p>23 think they're independent of that.</p> <p>24 Q. And so PLRB does not function as Harleysville's</p>
87	<p>1 to provide a common resource for training materials,</p> <p>2 monitoring storm activity. There's a variety of</p> <p>3 functions.</p> <p>4 Q. Would claims employees have access to this</p> <p>5 bureau?</p> <p>6 A. I believe so, yes. I'm not sure that all</p> <p>7 claims employees have access, but certainly some claim</p> <p>8 employees do.</p> <p>9 Q. So this was, in essence, a resource available</p> <p>10 to some claims employees?</p> <p>11 A. Correct.</p> <p>12 Q. And was that the case in the summer of 2004?</p> <p>13 A. Yes.</p> <p>14 Q. Can you give me a general understanding of why</p> <p>15 claims employees would utilize this resource or under</p> <p>16 what circumstances they would?</p> <p>17 A. A variety of reasons. For instance, PLRB sends</p> <p>18 mass e-mailings for updates for weather events that</p> <p>19 happen throughout the country. I'll be on that list.</p> <p>20 So if a storm impacted one of our policy centers where</p> <p>21 we have a lot of business, then I would be aware that</p> <p>22 a weather event had happened prior to the claims even</p> <p>23 being reported so we could react more proactively to</p> <p>24 it.</p>	89	<p>1 attorneys as far as you know?</p> <p>2 A. No, they do not.</p> <p>3 Q. Are you aware that Ms. Clodfelter reached out</p> <p>4 to PLRB with respect to Mr. Drexel's claim?</p> <p>5 A. No. I wouldn't be surprised.</p> <p>6 Q. Why wouldn't you be surprised? Is there some</p> <p>7 particular aspect of this claim that makes you answer</p> <p>8 it that way?</p> <p>9 A. Yes. This is -- this isn't your typical claim,</p> <p>10 so I'm sure she would have questions.</p> <p>11 Q. I mean, is there any particular aspect of the</p> <p>12 claim that you're referring to when you say that?</p> <p>13 A. Yes. It started out when she first was</p> <p>14 assigned the claim that it had, that there was</p> <p>15 coverage afforded and later information determined</p> <p>16 that that coverage did not exist, so that's unusual</p> <p>17 and that unusual situation has caused questions.</p> <p>18 Q. Do you have an understanding of what types of</p> <p>19 questions Ms. Clodfelter could have been asking on</p> <p>20 that issue?</p> <p>21 A. She could have been asking any number of</p> <p>22 things. I have no way of knowing what she was asking.</p> <p>23 Q. And you don't have any direct knowledge of the</p> <p>24 specific questions Ms. Clodfelter may have sent or</p>

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90	<p>1 asked of the PLRB?</p> <p>2 A. I didn't know she had until you mentioned it.</p> <p>3 Q. If you refer to H-1 again, please. There's a</p> <p>4 note on September 3rd, '04 at 11:18. I would</p> <p>5 generally just ask you to review that note and any</p> <p>6 other notes there and tell me if you can explain why</p> <p>7 Ms. Clodfelter was reaching out to the PLRB in this</p> <p>8 case.</p> <p>9 A. "I sent PLRB a question on 8/19 regarding this</p> <p>10 claim. I had not heard anything as of this date. I</p> <p>11 e-mailed PLRB and they advised they were working on</p> <p>12 the answer and would get back with me either today or</p> <p>13 Tuesday."</p> <p>14 She did not mention what her question was.</p> <p>15 Q. Are you able to tell from anywhere else in H-1</p> <p>16 what her question to PLRB was?</p> <p>17 A. She doesn't describe her question in these</p> <p>18 notes that I see. If I'm missing it, you can point it</p> <p>19 out.</p> <p>20 Q. No. For the record, I don't think you're</p> <p>21 missing anything. As far as I can tell, there's no</p> <p>22 indication in there what question she was asking.</p> <p>23 If you had to answer that question,</p> <p>24 specifically what question she was asking PLRB, where</p>	92	<p>1 MR. CASARINO: But that did not go into</p> <p>2 effect until after this loss. I just want to make an</p> <p>3 objection to your inquiries about it.</p> <p>4 Q. This topic, if you will, went into effect on</p> <p>5 May 15, 2005. Is that correct, as far as you can</p> <p>6 tell?</p> <p>7 A. That's what it says in the index.</p> <p>8 Q. And it also says it on page 3 of the topic. Is</p> <p>9 that correct?</p> <p>10 A. There is a date. It coincides with the date on</p> <p>11 the index.</p> <p>12 Q. Do you have any knowledge regarding what</p> <p>13 changes may have been made to this particular topic in</p> <p>14 the May 15th, 2005 revisions?</p> <p>15 A. Not without comparing that to the other</p> <p>16 document.</p> <p>17 Q. If you look at page 55, the second page of that</p> <p>18 topic, the second dot, could you explain that</p> <p>19 paragraph to me on page 55?</p> <p>20 A. I can't see if there's a dot under -- yes. The</p> <p>21 second dot is "You do not have authority"?</p> <p>22 Q. Yes.</p> <p>23 Can you explain in essence what that</p> <p>24 paragraph means?</p>
91	<p>1 would you look or what documents would you try to get?</p> <p>2 A. Well, it mentions that she e-mailed them. So</p> <p>3 if she retained a copy of the e-mail, that might</p> <p>4 detail exactly what her question is.</p> <p>5 Q. Should Ms. Clodfelter have retained a copy of</p> <p>6 her e-mail to PLRB?</p> <p>7 A. She doesn't have to, no.</p> <p>8 Q. That's not something that she should have put</p> <p>9 into the claims file?</p> <p>10 A. It's optional. It's a question, you know, so</p> <p>11 if she has a question, if she was changing or</p> <p>12 modifying her handling of the claim based on</p> <p>13 information that was generated by an answer from PLRB,</p> <p>14 we would expect that to be in there so we would</p> <p>15 understand what she was doing and why.</p> <p>16 Q. Do you know whether PLRB keeps any records</p> <p>17 regarding questions from claims handlers such as</p> <p>18 Ms. Clodfelter?</p> <p>19 A. I don't know what PLRB's procedures are</p> <p>20 regarding retention of questions, no.</p> <p>21 Q. Could you please turn to page 54 and tell me</p> <p>22 whether you can identify that page or document?</p> <p>23 A. Chapter 4, Property Vendors, Independent</p> <p>24 Adjuster Standards.</p>	93	<p>1 A. Yes. It means the independent adjuster does</p> <p>2 not have the authority to hire a contractor without</p> <p>3 approval of the handling adjuster. That's what it</p> <p>4 says.</p> <p>5 Q. Does that paragraph accurately represent the</p> <p>6 same relationship in the summer of 2004?</p> <p>7 A. Yes.</p> <p>8 Q. Do you understand the question?</p> <p>9 A. Yes, I do.</p> <p>10 Q. In other words, although this was updated --</p> <p>11 A. Does this describe a change in our procedure?</p> <p>12 In 2004 they did not have authority to engage the</p> <p>13 services of a contractor either.</p> <p>14 MR. CASARINO: There's a section on this</p> <p>15 on the one that was in effect. Why don't you ask him</p> <p>16 about that?</p> <p>17 MR. BESTE: I'm asking about this one.</p> <p>18 MR. CASARINO: Well, I object to this one.</p> <p>19 MR. BESTE: That's fine.</p> <p>20 BY MR. BESTE:</p> <p>21 Q. The description offered in that paragraph that</p> <p>22 we're discussing was effective, if you will, at the</p> <p>23 time this claim was being adjusted?</p> <p>24 A. It's my understanding it was or something</p>

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94	<p>1 very very -- the procedure that it's trying to</p> <p>2 describe here is that an independent adjuster does not</p> <p>3 have the authority to engage the services that a</p> <p>4 contractor may charge us for, in other words, incur</p> <p>5 additional expense without securing approval of the</p> <p>6 personnel that would be paying for that expense.</p> <p>7 Q. In other words, Harleysville?</p> <p>8 A. Correct.</p> <p>9 Q. Doesn't the converse of that also mean that</p> <p>10 with the approval of the claims handler, the</p> <p>11 independent adjuster had authority to engage the</p> <p>12 services of a contractor?</p> <p>13 A. If the handling adjuster authorizes that</p> <p>14 authority, then they would have that authority.</p> <p>15 Q. And that was the case in 2004?</p> <p>16 A. As far as I know, yes. I mean, I don't see why</p> <p>17 it wouldn't be. This is not, this is not a change in</p> <p>18 the way the claims have been handled for ten years at</p> <p>19 Harleysville in my experience.</p> <p>20 Q. So at the time this claim was adjusted</p> <p>21 Ms. Clodfelter would have had authority to authorize</p> <p>22 an independent adjuster to engage a contractor?</p> <p>23 A. Yes.</p> <p>24 Q. Did Ms. Clodfelter authorize Mr. Powell or</p>	96	<p>1 Insurance or George Powell, the independent adjuster,</p> <p>2 to engage a contractor?</p> <p>3 A. I don't know. I don't think so.</p> <p>4 Q. Well, what is Harleysville's official position</p> <p>5 on that?</p> <p>6 A. Whether they engaged a contractor or not?</p> <p>7 Q. Whether Mr. Powell or Tower Insurance was</p> <p>8 authorized by Harleysville to engage a contractor.</p> <p>9 A. I haven't seen any documentation of that</p> <p>10 authorization. It's not absolutely necessary that it</p> <p>11 be written for it to be authorized.</p> <p>12 If Sherry verbally told Mr. Powell that he</p> <p>13 was authorized to engage a contractor, then he's</p> <p>14 authorized, but it would be hard for me to know that.</p> <p>15 Q. You speak for Harleysville regarding this</p> <p>16 claim, correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Is your testimony that you don't know and are</p> <p>19 unable to tell me whether Ms. Clodfelter authorized</p> <p>20 George Powell or Tower Insurance to engage the</p> <p>21 services of a contractor in this case?</p> <p>22 MR. CASARINO: Here's where I'm confused.</p> <p>23 Let me object here. You keep asking to engage a</p> <p>24 contractor but you don't say for what.</p>
95	<p>1 Tower Insurance to engage a contractor in this case at</p> <p>2 any time?</p> <p>3 MR. CASARINO: To do what?</p> <p>4 MR. BESTE: Anything.</p> <p>5 MR. CASARINO: I thought that's been asked</p> <p>6 and answered already.</p> <p>7 A. I don't know if she did or not. Is that in the</p> <p>8 notes somewhere?</p> <p>9 She had, I know that she had asked that</p> <p>10 Mr. Powell's estimate be agreed to by a contractor.</p> <p>11 That does not necessarily mean that they have engaged</p> <p>12 the services of a contractor.</p> <p>13 Q. But are you able to tell whether Ms. Clodfelter</p> <p>14 authorized Mr. Powell or Tower Insurance to engage the</p> <p>15 contractor to complete the repairs on Mr. Drexel's</p> <p>16 property here?</p> <p>17 A. No, she did not engage the services of a</p> <p>18 contractor to complete a repair. That would be</p> <p>19 something that's beyond her scope or authority.</p> <p>20 Q. I thought we just established that</p> <p>21 Ms. Clodfelter had the authority to authorize the</p> <p>22 independent adjuster to engage a contractor?</p> <p>23 A. Correct.</p> <p>24 Q. Did Ms. Clodfelter in this case authorize Tower</p>	97	<p>1 It's already been established earlier that</p> <p>2 I thought he said that he hired him to get an agreed</p> <p>3 price, but you keep jumping around from agreed price</p> <p>4 to doing the work.</p> <p>5 Are you asking him to do the work or to</p> <p>6 get an agreed price?</p> <p>7 MR. BESTE: Could you read back the</p> <p>8 question, please?</p> <p>9 MR. CASARINO: That's all I'm asking you.</p> <p>10 (The reporter read back the last</p> <p>11 question.)</p> <p>12 BY MR. BESTE:</p> <p>13 Q. There's an objection to that question.</p> <p>14 MR. CASARINO: I just want you to</p> <p>15 elaborate. To do what?</p> <p>16 Q. You can answer.</p> <p>17 A. The answer is he did not have authority to</p> <p>18 engage a contractor to effect any repair whatsoever.</p> <p>19 Q. How do you know that?</p> <p>20 A. Because that authority would have to arise from</p> <p>21 the insured.</p> <p>22 Q. I thought that we established that</p> <p>23 Ms. Clodfelter had the power to authorize Tower</p> <p>24 Insurance, the independent adjuster, to engage the</p>

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98	<p>1 services of a contractor to repair the property?</p> <p>2 A. She has that theoretical authority to directly</p> <p>3 repair an insured's property should we choose to</p> <p>4 notify the insured that we are exercising that option.</p> <p>5 We did not exercise that option. So any</p> <p>6 engagement of a contractor for the purpose of</p> <p>7 repairing the property had to originate from the</p> <p>8 insured.</p> <p>9 Q. I'm going to show you page 55 of H-25 again.</p> <p>10 Well, you have it in front of you.</p> <p>11 If you look at the second paragraph on</p> <p>12 that page, can you explain to me where it details your</p> <p>13 testimony that the authority has to come from the</p> <p>14 insured as opposed to the handling adjuster?</p> <p>15 A. What this paragraph addresses is the</p> <p>16 circumstance where an independent adjuster does not</p> <p>17 have the expertise or experience to complete an</p> <p>18 estimate on his own, so he would have to hire a</p> <p>19 contractor to complete that estimate to establish the</p> <p>20 amount of damage.</p> <p>21 For example, in any building, if the</p> <p>22 building were hit, should you have extensive</p> <p>23 electrical damage to your system the independent</p> <p>24 adjuster almost certainly does not have the technical</p>	100	<p>1 MR. BESTE: Your objection is noted.</p> <p>2 A. Ordinarily, that's correct.</p> <p>3 Q. How is that intricacy explained to either the</p> <p>4 independent adjuster or the insured?</p> <p>5 A. Ordinarily you don't have to explain it to the</p> <p>6 independent adjuster. They understand it.</p> <p>7 The insured may or may not understand it</p> <p>8 and you explain it to the insured simply by letting</p> <p>9 them know that it is the insured's property and it is</p> <p>10 his decision who he uses to repair the property or how</p> <p>11 the property is repaired. What we do as an insurer is</p> <p>12 establish what needs to be done and what it should</p> <p>13 cost.</p> <p>14 Q. Are there any contracts or documents that spell</p> <p>15 out Harleysville's relationship with Mr. Powell or</p> <p>16 Tower Insurance with respect to this claim?</p> <p>17 A. Aside from -- I don't know that this document</p> <p>18 was in effect at that time. There may have been --</p> <p>19 this may be a replacement to a previous document that</p> <p>20 may have applied. I don't know if this document would</p> <p>21 have been included in our property manual, but it may</p> <p>22 have been just a general restatement of a previous</p> <p>23 document.</p> <p>24 Q. What I'm asking you though is: Are there any</p>
99	<p>1 ability to complete an electrical estimate that would</p> <p>2 accurately reflect the damage. You would have to hire</p> <p>3 an electrician to establish the amount of the</p> <p>4 electrical damage. He does not have the authority to</p> <p>5 hire that electrician without the approval of the</p> <p>6 handling adjuster.</p> <p>7 Q. So with the approval of the handling adjuster,</p> <p>8 the independent adjuster has that authority to hire</p> <p>9 contractors to do work?</p> <p>10 A. To establish the work that needs to be done and</p> <p>11 the pricing of that work. That's the work that they</p> <p>12 would be hired to complete, not directly effecting a</p> <p>13 repair on an insured's property. That's the next</p> <p>14 step.</p> <p>15 After we reach an agreement as to what</p> <p>16 needs to be done and how much it should cost, the</p> <p>17 insured gets to hire either that contractor or his own</p> <p>18 to effect the work.</p> <p>19 Q. Am I correct that your testimony is that the</p> <p>20 claims handler has authority to engage the services of</p> <p>21 a contractor only to estimate the damage as opposed to</p> <p>22 actually completing the work?</p> <p>23 MR. CASARINO: He's answered this question</p> <p>24 several times. I have an objection.</p>	101	<p>1 documents or materials which we could refer to where</p> <p>2 the specific relationship between Harleysville and</p> <p>3 Tower Insurance was spelled out in writing with</p> <p>4 respect to this claim?</p> <p>5 A. No.</p> <p>6 Q. With respect to this claim, how would</p> <p>7 Mr. Powell have known the extent of his authority</p> <p>8 without such a document?</p> <p>9 A. This isn't the first claim that Mr. Powell has</p> <p>10 done for us. He has the advantage of the experience</p> <p>11 with us. He knows what his authority level is or</p> <p>12 isn't.</p> <p>13 Q. So Harleysville, in essence, was relying on</p> <p>14 Mr. Powell's experience in this case with respect to</p> <p>15 the scope of his authority?</p> <p>16 A. Harleysville relied on Mr. Powell's</p> <p>17 understanding of his authority with Harleysville.</p> <p>18 Q. To your knowledge, is that understanding or</p> <p>19 scope of authority spelled out in any document or</p> <p>20 claims notes or other materials in this case?</p> <p>21 A. Not specific to this case. There are</p> <p>22 general -- this property manual that we're talking</p> <p>23 about, Exhibit 25, is not specific to this case.</p> <p>24 Q. Forget about the property manual.</p>

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102	<p>1 Are there any documents or materials or</p> <p>2 claims notes, anything that spells out the scope of</p> <p>3 Mr. Powell's authority with respect to this claim?</p> <p>4 A. No.</p> <p>5 Q. Does Harleysville have any type of contract</p> <p>6 with Mr. Powell or Tower Insurance that is actually</p> <p>7 written?</p> <p>8 A. No.</p> <p>9 MR. CASARINO: You're well beyond fifteen</p> <p>10 minutes, by the way.</p> <p>11 MR. BESTE: Tell me about it.</p> <p>12 Can I have this marked as H-26, please?</p> <p>13 (H Deposition Exhibit No. 26 was marked</p> <p>14 for identification.)</p> <p>15 BY MR. BESTE:</p> <p>16 Q. Are you able to identify the document marked as</p> <p>17 Exhibit H-26?</p> <p>18 A. I can read the heading on it, but I have never</p> <p>19 seen it before.</p> <p>20 Q. To your knowledge, does this document or the</p> <p>21 information contained therein have any impact on the</p> <p>22 claims handling in this case?</p> <p>23 A. I'll have to read it and see.</p> <p>24 Q. Maybe we can avoid that.</p>	104	<p>1 That might have been where I picked it up.</p> <p>2 Q. This is a letter from Tower Insurance, George</p> <p>3 Powell. Is that correct?</p> <p>4 A. Yes. It appears to be.</p> <p>5 Q. And Tower Insurance and George Powell were the</p> <p>6 independent adjuster on this claim retained by</p> <p>7 Harleysville. Is that correct?</p> <p>8 A. He's the independent adjuster we hired, yes.</p> <p>9 Q. If you review the final paragraph on the first</p> <p>10 page, it appears that Tower Insurance was encouraging</p> <p>11 Mr. Drexel to begin repairs to the property.</p> <p>12 Tell me if I'm misreading that paragraph.</p> <p>13 A. That's what it says: "Certainly Mr. Drexel is</p> <p>14 encouraged to begin repair activity for this fire that</p> <p>15 occurred over one month ago."</p> <p>16 Q. When you read that sentence, did Mr. Powell</p> <p>17 have authority to encourage Mr. Drexel to make the</p> <p>18 repairs?</p> <p>19 MR. CASARINO: I object to that question.</p> <p>20 A. I believe he had authority to do that, yes,</p> <p>21 essentially releasing any interest we may have in the</p> <p>22 scene so he can begin repairs. Yes, I think that</p> <p>23 confirms that we're not going to be sending more</p> <p>24 experts, we're not going to have -- we're not worried</p>
103	<p>1 Let me ask you this way: Have you ever</p> <p>2 seen this document before?</p> <p>3 A. No.</p> <p>4 Q. Have you ever seen any similar documents?</p> <p>5 A. I've seen other documents. What's a similar</p> <p>6 document?</p> <p>7 Q. Does the title Corporate Direct Bill Criteria</p> <p>8 mean anything to you as a claims representative for</p> <p>9 Harleysville?</p> <p>10 A. Not as claims representative. It appears to be</p> <p>11 just what it says, criteria apparently for</p> <p>12 establishing a direct bill relationship.</p> <p>13 Q. I'm going to show you one more document. This</p> <p>14 is part of H-8 and it's marked at the bottom DR 0432.</p> <p>15 It's a two-page letter.</p> <p>16 My first question is whether you have ever</p> <p>17 seen that document before?</p> <p>18 A. (Reviewing document) I think I have seen this</p> <p>19 or a copy of it.</p> <p>20 Q. Is there anything specific that you remember</p> <p>21 about it?</p> <p>22 A. Just that he had received the scope copy of the</p> <p>23 estimate without the pricing and I'm not certain if</p> <p>24 that language was also included in one of his reports.</p>	105	<p>1 about spoliation issues, that he can instigate</p> <p>2 repairs.</p> <p>3 And he goes on to say that "We do not have</p> <p>4 an agreed price for repairs or response to our</p> <p>5 questions. We cannot recommend at this time that an</p> <p>6 advance be issued." That's basically confirming that</p> <p>7 he's encouraged to begin repair, but he'll do that at</p> <p>8 his expense.</p> <p>9 Q. Where does it say at his expense?</p> <p>10 A. Well, if we don't recommend at this time that</p> <p>11 an advance be issued, whose expense would it be at?</p> <p>12 Q. Well, an advance would be issued before the</p> <p>13 work was done, right?</p> <p>14 A. That would be an advance.</p> <p>15 Q. On August 1, 2004 did Tower Insurance have</p> <p>16 authority from Harleysville to authorize the repairs</p> <p>17 to start on Mr. Drexel's property?</p> <p>18 A. No.</p> <p>19 Q. As of August 1st, 2004 had Harleysville agreed</p> <p>20 to pay for the repairs to Mr. Drexel's property if the</p> <p>21 authority was received to begin with the repairs?</p> <p>22 A. What? I'm sorry?</p> <p>23 MR. CASARINO: I don't understand your</p> <p>24 question.</p>

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106	<p>1 BY MR. BESTE:</p> <p>2 Q. As of August 1st, 2004 had Harleysville agreed</p> <p>3 to pay for the repairs to Mr. Drexel's property?</p> <p>4 A. I don't believe so.</p> <p>5 Q. But it's true, however, that Harleysville's</p> <p>6 independent adjuster was encouraging the contractor,</p> <p>7 Booth Associates, Booth Insurance Restorations to</p> <p>8 begin the repairs as reflected in this letter?</p> <p>9 A. That's correct.</p> <p>10 MR. BESTE: That's all I have.</p> <p>11 BY MR. CASARINO:</p> <p>12 Q. Take a look at H-10 for a moment, which would</p> <p>13 be the final report from Tower Insurance. Look at the</p> <p>14 first page of the letter that was sent.</p> <p>15 Under Enclosures it says, "Confirmation</p> <p>16 from insured's contractor agreeing to the estimate."</p> <p>17 Is the insured's contractor Booth Construction?</p> <p>18 A. If that's the contractor he reached the</p> <p>19 agreement with, I would have to say yes.</p> <p>20 Q. And under Activities it says, "We have</p> <p>21 confirmed an agreed repair price with the insured's</p> <p>22 contractor G. S. Booth Construction."</p> <p>23 Do you see that?</p> <p>24 A. I do.</p>	108	<p>1 would assign to it.</p> <p>2 Q. The PLRB, do you know if the PLRB has attorneys</p> <p>3 on staff?</p> <p>4 A. Yes, they do.</p> <p>5 Q. And do you know if you can ask them for legal</p> <p>6 opinions concerning your claim or a claim?</p> <p>7 A. Not for -- they do not represent us. We</p> <p>8 couldn't get a legal opinion, but we could get their</p> <p>9 opinion.</p> <p>10 Q. Okay. Take a look at the log notes beginning</p> <p>11 on September 14, 2004. There's a log note from</p> <p>12 Mr. Riddle dated September 14, '04. The time is</p> <p>13 14:12.</p> <p>14 Do you see that?</p> <p>15 A. Yes, I see it.</p> <p>16 Q. And of course it says, "Now that U/W." Is that</p> <p>17 underwriting?</p> <p>18 A. Yes.</p> <p>19 Q. "Has provided their official position that this</p> <p>20 policy was not in effect on the date of loss and will</p> <p>21 not be reinstated, I believe it is time to send a</p> <p>22 formal letter to the insured explaining no coverage is</p> <p>23 available."</p> <p>24 Now, this is a note prepared by</p>
107	<p>1 Q. And when referring to insured's contractor,</p> <p>2 you're referring to the contractor retained by the</p> <p>3 insured, Mr. Drexel?</p> <p>4 A. That's correct.</p> <p>5 Q. Do you know from the documents that you have</p> <p>6 seen if Mrs. Clodfelter was working on August the</p> <p>7 11th, 2004 or August the 12th, 2004?</p> <p>8 A. (Pause).</p> <p>9 Q. If you take a look at H-1, for instance, see if</p> <p>10 there's any notations for those two dates.</p> <p>11 A. There's a notation on 8-10 and the next one</p> <p>12 from her is on 8-13.</p> <p>13 Q. So that doesn't help us one way or the other?</p> <p>14 A. No. I don't know if she was working or not.</p> <p>15 Q. In the log note of June 22 at 23:52, if I can</p> <p>16 read it, it says, "ack letter sent to insured."</p> <p>17 Is that acknowledgment letter?</p> <p>18 A. That's right.</p> <p>19 Q. Is that a form letter of some sort?</p> <p>20 A. It's a system-generated form letter advising</p> <p>21 the insured who their claim rep is.</p> <p>22 Q. Does it do more than that, than just advise who</p> <p>23 the claim rep is?</p> <p>24 A. It may, but it's -- that's the main function I</p>	109	<p>1 Mr. Riddle?</p> <p>2 A. Yes.</p> <p>3 Q. Does he mention anything about cancellation?</p> <p>4 A. No.</p> <p>5 Q. And do you believe that was his instruction to</p> <p>6 Ms. Clodfelter to send the letter?</p> <p>7 A. Yes.</p> <p>8 Q. And there's a letter that was generated</p> <p>9 apparently September 15 that's been referred to</p> <p>10 earlier that used the word cancellation?</p> <p>11 A. Sherry used the word cancellation, yes.</p> <p>12 Q. Take a look at Exhibit 8, which is I think</p> <p>13 it's -- let me show it to you this way.</p> <p>14 A. I got it here.</p> <p>15 Q. We can look at DR 0370. This is the letter</p> <p>16 from I believe Tower from Mr. Powell to Sherry dated</p> <p>17 July 30, 2004.</p> <p>18 Under Investigation it says the insured</p> <p>19 has contracted with Booth Insurance Restorations to</p> <p>20 effect repairs, does it not?</p> <p>21 A. That's what it says.</p> <p>22 Q. Down in the third paragraph, "We have asked the</p> <p>23 insured's contractor to review our estimates and to</p> <p>24 contact our office so that we can read through the</p>

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110	<p>1 differences and to reach an agreed price." Is that</p> <p>2 correct?</p> <p>3 A. Yes. That's correct.</p> <p>4 Q. It appears then that the insured's contractor</p> <p>5 and Mr. Powell may have had a differences of opinion</p> <p>6 as to what the cost of the repairs would be?</p> <p>7 A. I'm sure they did.</p> <p>8 MR. CASARINO: I nothing further.</p> <p>9 BY MR. BESTE:</p> <p>10 Q. Who did you say Robert Southard was?</p> <p>11 A. I believe he is a high-level manager in the</p> <p>12 southeast underwriting organization.</p> <p>13 MR. CASARINO: He's in underwriting, Rob.</p> <p>14 I can tell you that.</p> <p>15 BY MR. BESTE:</p> <p>16 Q. I'm going to refer you --</p> <p>17 A. I believe his position changed from 2004 to</p> <p>18 present day.</p> <p>19 Q. Do you know what his position was in 2004?</p> <p>20 A. No.</p> <p>21 Q. I'm going to refer you to Ms. Clodfelter's</p> <p>22 claim note from August 13th at 15:36.</p> <p>23 A. Okay.</p> <p>24 Q. And this is in H-1 again.</p>	112	<p>1 underwriting.</p> <p>2 Q. So as you read that note, Ms. Clodfelter and</p> <p>3 Mr. Riddle had received underwriting's official</p> <p>4 position in an e-mail dated August 13th?</p> <p>5 A. Yes.</p> <p>6 Q. I'm going to show you what's been marked as</p> <p>7 H-15 and ask you if you can identify that e-mail dated</p> <p>8 August 13th.</p> <p>9 A. Yes. It's an e-mail from Bob Southard to</p> <p>10 Robert Southard confirming that the policy was</p> <p>11 canceled for non-payment and we have no intention of</p> <p>12 reinstating coverage; no payment has been received</p> <p>13 since the cancellation notice was mailed to the</p> <p>14 insured.</p> <p>15 Q. Based on the notes we were just discussing,</p> <p>16 does this e-mail appear to be underwriting's official</p> <p>17 position on the status of this policy as of August</p> <p>18 13th?</p> <p>19 MR. CASARINO: I object.</p> <p>20 A. That's what I would take it as.</p> <p>21 MR. CASARINO: Underwriting's position is</p> <p>22 up to underwriting, not to him. His understanding is</p> <p>23 one thing.</p> <p>24 I object to your attempting to get him to</p>
111	<p>1 Isn't it correct based on this note that</p> <p>2 Ms. Clodfelter asked underwriting for an e-mail</p> <p>3 confirming that the policy has been canceled?</p> <p>4 A. Well, it's not clear what -- she's asking for</p> <p>5 an e-mail confirmation. It's not clear from the</p> <p>6 language if it's requesting confirmation of the</p> <p>7 cancellation or whether that they would not reinstate.</p> <p>8 Q. But she is asking for underwriting's official</p> <p>9 position on the status of the policy, in essence?</p> <p>10 A. Essentially she's looking for some solid</p> <p>11 confirmation before she denies this claim that there's</p> <p>12 no coverage.</p> <p>13 Q. And that would come from the underwriting</p> <p>14 department?</p> <p>15 A. That's correct.</p> <p>16 Q. And looking back at the note on 9-14-2004,</p> <p>17 there's two notes from Clodfelter and Riddle. Does it</p> <p>18 not appear that by 9-14 they had an official position</p> <p>19 from underwriting on the status of Mr. Drexel's</p> <p>20 policy?</p> <p>21 A. It says in the note on 9-14 that they received</p> <p>22 the e-mail on 8-13.</p> <p>23 Q. Does it say who the e-mail came from?</p> <p>24 A. No, it doesn't. It just says from</p>	113	<p>1 say what somebody else's authority is, their position</p> <p>2 is.</p> <p>3 BY MR. BESTE:</p> <p>4 Q. I believe I asked you whether this e-mail</p> <p>5 appeared to be underwriting's official position and</p> <p>6 instruction to the claims department as referenced in</p> <p>7 the notes by Mr. Clodfelter and Mr. Riddle.</p> <p>8 A. I would accept it as that.</p> <p>9 MR. BESTE: Thank you. That's all I have.</p> <p>10 MR. CASARINO: Okay. We'll waive it.</p> <p>11 (Deposition concluded at 1:50 p.m.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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24 Multipage document captioned "Harleysville Best Practices Claims Handling Manual May 2004 Edition"	74
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CERTIFICATE OF REPORTER PAGE 115

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State of Delaware)
New Castle County)


CERTIFICATE OF REPORTER

I, Kurt A. Fetzer, Registered Diplomate Reporter and Notary Public, do hereby certify that there came before me on Tuesday, September 11, 2007, the deponent herein, THEODORE GREGG PARKER, who was duly sworn by me and thereafter examined by counsel for the respective parties; that the questions asked of said deponent and the answers given were taken down by me in Stenotype notes and thereafter transcribed by use of computer-aided transcription and computer printer under my direction.

I further certify that the foregoing is a true and correct transcript of the testimony given at said examination of said witness.

I further certify that reading and signing of the deposition were waived by the deponent and counsel.

I further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the outcome of this suit.

 *Kurt A. Fetzer*
Kurt A. Fetzer, RDR, CRR
Certification No. 100-RPR
(Expires January 31, 2008)

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